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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2000]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES AND LICENSES

SPECIAL STIPULATIONS FOR LANDS WHERE SURFACE CONTROL IS UNDER JURISDICTION OF DEPARTMENT OF AGRICULTURE OR FOR LANDS IN RECLAMATION, OR POWER SITE WITHDRAWALS OR RESERVATIONS, OR FEDERAL WILDLIFE LANDS

Section 191.6 is revised as follows:

§ 191.6 *Special stipulations for lands where surface control is under jurisdiction of the Department of Agriculture or for lands in reclamation, or power site withdrawals or reservations, or Federal wildlife lands.* Offerors for noncompetitive oil and gas leases and applicants for permits, leases, and licenses for lands, the surface control of which is under the jurisdiction of the Department of Agriculture, will be required to consent to the inclusion therein of the stipulation on Form 4–216. Where the lands have been withdrawn for reclamation purposes the offeror or applicant will be required to consent to the inclusion of a stipulation on Form 4–467 if the land is potentially irrigable, or Form 4–467 (a) if the land is within the flow limits of a reservoir site, or Form 4–467 (b) if the land is within the drainage area of a constructed reservoir, or if withdrawn for power purposes, Form 4–1223. Where the lands have been withdrawn as Game Range Lands, Coordination Lands, or Alaska Wildlife Areas, as defined in § 192.9, the offeror or applicant will be required to consent to the inclusion of a stipulation on Form 4–1383. Additional conditions may be imposed to protect the land withdrawn if deemed necessary by the agency having jurisdiction over the surface.

(Sec. 32, 41 Stat. 450, sec. 1, 44 Stat. 301, as amended; 30 U. S. C. 189, 271)

FRED A. SEATON,
Secretary of the Interior.

APRIL 18, 1958.

[F. R. Doc. 58–3025; Filed, Apr. 21, 1958; 10:57 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2001]

Miscellaneous Amendments

The schedule of service fees and charges related to lands and resources under the jurisdiction of the Bureau of Land Management, dated September 7, 1955 (20 F. R. 6746) effective September 28, 1955, is hereby cancelled and the following changes in the following parts of Title 43 are hereby made:

Subchapter A—Alaska

Part 62—Fur Farming

Section 62.6 is amended by adding a new paragraph as follows:

§ 62.6 *Application for lease.*[1] • • •

(m) All applications must be accompanied by an application service fee of $10 which will not be returnable.

Part 64—Homesites or Headquarters

1. Section 64.5 is amended by adding a new paragraph (k) as follows:

§ 64.5 *Form and contents of application.*[1] • • •

(k) All applications must be accompanied by an application service fee of $10 which will not be returnable.

2. Section 64.12 is amended by adding a new paragraph (j) as follows:

§ 64.12 *Form and contents of application.* • • •

(j) All applications must be accompanied by an application service fee of $10 which will not be returnable.

Part 74—Rights-of-Way

1. The headnote of § 74.18 is amended, the present text of the section is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 74.18 *Showing required in application; service fee.* (a) • • •

(b) All applications must be accompanied by an application service fee of $10 which will not be returnable.

2. The following cross reference is inserted immediately after § 74.26:

Cross Reference: For service fees on applications, see § 244.3 (b) of this chapter.

Part 75—Sales and Leases

1. The present text of § 75.8 is designated as paragraph (a) and a new paragraph (b) added as follows:

§ 75.8 *Action by Alaska Rural Rehabilitation Corp.* (a) • • •

(b) All applications must be accompanied by an application service fee of $10 which will not be returnable.

2. Section 75.23 is amended as follows:

§ 75.23 *Application*[1]*; service fee; limitation on holdings.* (a) An application may be filed with the appropriate land office by any qualified individual, association of individuals, or corporation, including municipal and public corporations, to purchase land for industrial, commercial, or housing purposes.

(b) The application should be executed and filed in duplicate if the land is surveyed, or in triplicate if the land is unsurveyed. Each application should be for only one tract, reasonably compact in form, containing so much land, not exceeding 160 acres, as is actually required for the contemplated enterprise or project.

(c) Each application must be accompanied by an application service fee of $10 which will not be returnable, except that the application service fee shall be returned to the applicant where the application is allowed and the sale is held but the applicant is not the successful bidder. In such case, the successful bidder will be required to pay the $10 application service fee.

(d) An applicant may file any number of applications, but no award may be made nor may patent issue to any purchaser for land which, with other lands under this act then held by such purchaser, shall exceed 160 acres in the aggregate.

(e) The application should contain in substance the following information:

(1) Name and address of applicant; age; general nature of his business and principal place of business.

(2) An association is required to file a certified copy of its articles of association and the same showing, including holdings of its members, as required of an individual as specified herein. A corporation is required to file a certified copy of its articles of incorporation and a showing that it is qualified to hold real estate in Alaska.

(3) Description of the land desired, by legal subdivision, section, township and range, if surveyed, and by metes and bounds with the approximate area, if unsurveyed. The metes and bounds description should be connected by course and distance with some corner of the public land surveys, if practicable, or with reference to rivers, creeks, mountains, towns, islands, or other prominent topographical points or natural objects or monuments. No patent may issue, however, until an official survey is made.

(4) A brief but complete statement as to the use to which the land will be put, supplemented by the showings required

[1] Title 18, U. S. C., sec. 1001, makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

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in § 75.24.

(5) A statement of the applicant's interests, direct or indirect, whether as a member of an association or stockholder in a corporation or otherwise, in lands covered by purchase certificates or patents issued under the act, with the acreage thereof, identifying the same by land office and serial or by patent number, and a statement that the total amount of such lands then held by the applicant, together with the lands applied for, do not exceed 160 acres in the aggregate.

(f) The application must be signed by the applicant or an attorney in fact; if executed by an attorney in fact it must be accompanied by the power of attorney. Application on behalf of corporation must be accompanied by proof of the signing officer's authority to execute the instrument and must have the corporate seal affixed thereto. When a municipal or public corporation is the applicant, the authority of the signing official or officials to act for the corporation must be furnished, evidenced by a certified copy of the resolution of its governing board or body.

PART 80—TOWNSITES

The present text of § 80.6 is designated as paragraph (a) and a new paragraph (b) is added as follows:

§ 80.6 *Filing of application; publication and posting; submission of proof.* (a) * * *

(b) The trustee's application shall be accompanied by a $10 application service fee which shall not be returnable.

PART 81—TRADE AND MANUFACTURING SITES

The present text of § 81.2 is designated as paragraph (a) and a new paragraph (b) is added as follows:

§ 81.2 *Execution of application.*[1] (a) * * *

(b) All applications must be accompanied by an application service fee of $10 which will not be returnable.

Subpchapter B—Applications and Entries

PART 104—AMENDMENTS

The present text of § 104.2 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 104.2 *Application to amend: form: where filed.*[1] (a) * * *

(b) All applications must be accompanied by an application service fee of $10 which will not be returnable.

[1] Title 18, U. S. C., sec. 1001, makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

PART 105—RELINQUISHMENTS, CANCELLATIONS AND REINSTATEMENTS

A new paragraph (e) is added to § 105.2, as follows:

§ 105.2 *Application for reinstatement.*[1] * * *

(e) All applications must be accompanied by an application service fee of $10 which will not be returnable.

Subchapter C—Areas Subject to Special Laws

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECOGNIZED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

The present texts of §§ 115.132 and 115.150 are designated as paragraphs (a), respectively, and a new paragraph (b) added to each, as follows:

§ 115.132 *Application and lease.* (a) * * *

(b) All applications, including applications arising out of the assignment of leased lands, where the application in whole or in part embraces lands that were not under lease to the applicant therefor on the date of filing such application, must be accompanied by an application service fee of $10 which will not be returnable.

§ 115.150 *Applications: issuance of permits.* (a) * * *

(b) All applications must be accompanied by an application service fee of $10 which will not be returnable.

Subchapter D—Certificates and Scrip

PART 130—GENERAL REGULATIONS INVOLVING CERTIFICATES AND SCRIP

The present text of § 130.1 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 130.1 *Statement required with location or selection.*[1] (a) * * *

(b) All applications to locate scrip, warrants, certificates, or to make lieu selections must be accompanied by an application service fee of $10 which will not be returnable.

PART 133—SCRIP

1. Paragraph (f) of § 133.1 is revoked.

2. Subparagraph (15) of paragraph (c) of § 133.2 is revoked.

Subchapter F—Color of Title and Riparian Claims

PART 141—COLOR OF TITLE AND RIPARIAN CLAIMS APPLICABLE TO PARTICULAR STATES

1. The present text of § 141.10 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 141.10 *Applications.* (a) * * *

(b) All applications to purchase under the act must be accompanied by an application service fee of $10 which will not be returnable.

2. The present text of § 141.16 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 141.16 *Applications.* (a) * * *

(b) All applications to purchase under the act must be accompanied by an application service fee of $10 which will not be returnable.

Subchapter I—Homesteads

PART 166—ORIGINAL, ADDITIONAL, SECOND, AND ADJOINING FARM HOMESTEADS, AUTHORIZED BY THE GENERAL PROVISIONS OF THE HOMESTEAD LAWS

1. Section 166.26 is amended by adding a new paragraph (c), as follows:

§ 166.26 *Application for extension of time.* * * *

(c) All applications must be accompanied by an application service fee of $5 which will not be returnable.

2. Section 166.28 is amended by adding a new paragraph (c) as follows:

§ 166.28 *Reduction of residence requirements to six months in each year.* * * *

(c) All applications must be accompanied by an application service fee of $5 which will not be returnable.

3. The present text of § 166.29 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 166.29 *Reduction of residence requirements to five months in each year.* (a) * * *

(b) All applications must be accompanied by an application service fee of $5 which will not be returnable.

4. The present text of § 166.39 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 166.39 *Application for leave of absence.* (a) * * *

(b) All applications for leave of absence for one year or less because of failure of crops, sickness, or other unavoidable casualty must be accompanied by an application service fee of $5 which will not be returnable.

5. Section 166.40 is amended by adding a new paragraph (e), as follows:

§ 166.40 *Conditions under which requirements as to cultivation may be reduced.* * * *

(e) All applications for reduction in area of cultivation must be accompanied by an application service fee of $5 which will not be returnable.

Subchapter L—Mineral Lands

PART 192—OIL AND GAS LEASES

1. Section 192.51 is amended as follows:

§ 192.51 *Notice of lease offer.* Notice of the offer of lands for lease will be by publication once a week for five consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated, or in such other publications as the authorized officer of the Bureau of Land Management may authorize. The notice published in a newspaper of general circulation in the county will contain a statement that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of that notice which shall be that portion of the total advertising cost that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared. The notice will also state the time and place of sale, the manner in which bids may be submitted, the description of the lands, and the terms and conditions of the sale.

2. Paragraph (b) of § 192.120 is amended as follows:

§ 192.120 *Single extension of a noncompetitive lease; segregation of leased lands; notation of records.* * * *

(b) The application for extension must be filed, within ninety days before the expiration date of the lease, on Form 4–1238, "Application for Extension of Oil and Gas Lease",[1] or unofficial copies of that form in current use and must be accompanied by a filing fee of $10 which will be retained as a service charge even though the application is later withdrawn or rejected and, unless previously paid, the sixth year's rental: *Provided*, That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes or advertising. Form 4–1238 or a valid reproduction of the official form. will also constitute approval of the extension when signed by an authorized officer.

PART 193—COAL LEASES, PERMITS AND LICENSES

Section 193.13 is amended, as follows:

§ 193.13 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will show the time and place of sale, whether the sale will be at public auction or by sealed bids, the description of the land and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which the bids may be submitted, and statements (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; and (b) that the Government reserves the right to reject any and all bids. If the sale is by public auction, the statement of terms and conditions of the sale will also specify that sealed bids may be submitted. If any bid be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding is unlawful. See 18 U. S. C. 1860.

PART 194—POTASSIUM PERMITS AND LEASES

Section 194.18 is amended as follows:

§ 194.18 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will state the time and place of sale, whether the sale will be at public auction or by sealed bids, the description of the land and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which bids may be submitted, and statements (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; and (b) that the Government reserves the right to reject any and all bids. If any bid be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding is unlawful. See 18 U. S. C. 1860.

PART 195—SODIUM PERMITS AND LEASES: USE PERMITS

Section 195.18 is amended as follows:

§ 195.18 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will state the time and place of sale; whether the sale will be at public auction or by sealed bids; the description of the lands; and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which bids may be submitted, and a statement (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; and (b) that the Government

[1] Filed with the Federal Register Division as part of the original document.

reserves the right to reject any and all bids. If any bid be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding, is unlawful. See 18 U. S. C. 1860.

PART 196—PHOSPHATE LEASES AND USE PERMITS

Section 196.11 is amended as follows:

§ 196.11 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will state the time and place of sale; whether the sale will be at public auction or by sealed bids; the description of the lands; and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which bids may be submitted, and statements (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; (b) that the terms of minimum production will not be reduced or waived at the lessee's request except as provided in §§ 196.5, 196.6, 191.25, or 191.26 of this chapter, or upon a satisfactory showing that market conditions are such that the lessee cannot operate except at a loss; (c) that the lease will be canceled if production, or the construction of production facilities, including processing plants, is not commenced by the beginning of the fourth year of the lease; and (d) that the Government reserves the right to reject any and all bids. If any bids be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding is unlawful. See 18 U. S. C. 1860.

PART 199—MINERALS SUBJECT TO LEASE UNDER SPECIAL LAWS

1. Section 199.10 is amended to read as follows:

§ 199.10 *Term of lease.* Leases will be issued for a period of 5 years subject to renewal at the expiration thereof for additional periods of 5 years each, on such reasonable terms as may be prescribed at the time of such renewal. An application for renewal of a lease must be filed in duplicate in the appropriate land office within 90 days prior to the expiration of the lease term and be accompanied by a filing fee of $10, which will be retained as a service charge even though the application should be rejected or withdrawn in whole or in part. Thereafter, the lessee will be notified of the terms and conditions to be prescribed in the renewal lease. Unless the lessee files written objections to the proposed terms, or files a relinquishment of the lease within 30 days after receipt of such notice, he will be deemed to have agreed to such terms and to the renewal of the lease. Prior to the renewal of a lease, the lessee will be required to submit a new bond as prescribed in § 199.11.

2. Section 199.21 is amended to read as follows:

§ 199.21 *Term of lease.* Leases will be issued for a period of 5 years subject to such special terms as may be deemed necessary in the particular case to protect the rights of the surface claimant and, in the discretion of the authorized officer, may be renewed at the expiration thereof for additional periods of 5 years each, on such reasonable terms as he may prescribe at the time of such renewal. An application for renewal of a lease must be filed in duplicate in the appropriate land office within 90 days prior to the expiration of the lease term and be accompanied by a filing fee of $10, which will be retained as a service charge even though the application should be rejected or withdrawn in whole or in part. Thereafter the lessee will be notified of the terms and conditions to be prescribed in the renewal lease. Unless the lessee files written objections to the proposed terms, or files a relinquishment of the lease within 30 days after receipt of such notice, he will be deemed to have agreed to such terms and to the renewal of the lease. Prior to the renewal of a lease, the lessee will be required to submit a new bond as prescribed in section 199.22.

3. A new § 199.24 is added to this part, to read as follows:

§ 199.24 *Transfers of leases.* (a) Leases issued under the authority specified in §§ 199.1 and 199.13 may be transferred in whole or in part. To the extent applicable, the regulations in § 188.20 of this title shall govern all transfers of such leases.

Subchapter O—Payments and Repayments

PART 216—PAYMENTS

Sections 216.12, 216.16, and 216.17 are revoked.

Subchapter Q—Reclamation and Irrigation

PART 230—RECLAMATION OF ARID LANDS BY THE UNITED STATES

1. The present text of § 230.26 is designated paragraph (a) and a new paragraph (b) added, as follows:

§ 230.26 *Showing required.* (a) * * *

(b) All applications for leave of absence within Federal irrigation projects under the act of June 25, 1910, must be accompanied by an application service fee of $5 which will not be returnable.

2. A new paragraph (e) is added to § 230.32, as follows:

§ 230.32 *Showing required.* * * *

(e) A service fee of $5 which will not be returnable.

3. The present text of § 230.38 is designated paragraph (a) and a new paragraph (b), added as follows:

§ 230.38 *Notice of interest by mortgagers.* (a) * * *

(b) All notices of mortgage interest on homestead or desert land entries filed in accordance with this section must be accompanied by a service charge of $5 which will not be returnable.

PART 231—STATE IRRIGATION DISTRICTS

A new paragraph (g) is added to § 231.2, as follows:

§ 231.2 *Application by a district for approval.* * * *

(g) All applications by State irrigation districts for approval under the act of August 11, 1916, must be accompanied by an application service fee of $10 which will not be returnable.

PART 232—DESERT LAND ENTRIES

1. Section 232.9 is amended by adding a new paragraph (c), as follows:

§ 232.9 *Applications for desert land entry.*[1] * * *

(c) All applications for desert land entries must be accompanied by an application service fee of $15 which is not returnable. This fee is in addition to the payment of 25 cents per acre, which is made at the time of filing applications as required by law.

2. Section 232.17 is amended by adding a new paragraph (d), as follows:

§ 232.17 *Showing required of assignees; recognition of assignments.* * * *

(d) All applications for recognition of assignment of desert land entries must be accompanied by an application service

[1] Title 18, U. S. C., sec. 1001, makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

fee of $10 which will not be returnable.

2. Section 232.18 is amended by adding a new paragraph (e), as follows:

§ 232.18 *When lands may be sold, taxed or mortgaged.* * * *

(e) The filing of all notices of recordation of claim by transferred, mortgages, or other encumbrancer under this section must be accompanied by a service charge of $10 which will not be returnable.

3. Section 232.37 is amended by adding a new paragraph (e), as follows:

§ 232.37 *When extensions of time may be granted.* * * *

(e) All applications for extension of time made under the acts of March 28, 1908, April 30, 1912, or February 25, 1925, must be accompanied by an application service fee of $10 which will not be returnable.

4. Section 232.40 is amended by adding a new paragraph (c), as follows:

§ 232.40 *Applications for relief.* * * *

(c) All such applications for relief must be accompanied by an application service fee of $10 which will not be returnable.

PART 234—RECLAMATION OF ARID LANDS IN NEVADA

Section 234.12 is amended by designating the present text of paragraph (c) as paragraph (d), substituting paragraph (c), to read as follows:

§ 234.12 *Extension of time.* * * *

(c) All applications for extension of time for the beginning, recommencement, or completion of the work of water development and submission of final proof must be accompanied by an application service fee of $10 which will not be returnable.

Subchapter S—Rights-of-Way

PART 243—RIGHTS-OF-WAY FOR RAILROADS AND STATION GROUNDS

Section 243.4 is amended by adding a new paragraph (c), as follows:

§ 243.4 *Proposed national forest; construction through forests.* * * *

(c) All rights-of-way applications for railroads and station grounds within national forests must be accompanied by a service fee of $10 which will not be returnable.

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

1. The present text of § 244.3 is designated as paragraph (a) and a new paragraph (b) is added, as follows:

§ 244.3 *Application.*[1] * * *

(b) All applications filed pursuant to this part in the name of individuals, corporations or associations must be accompanied by an application service fee of $10 except where the right of way will authorize use and occupancy of the lands exclusively for the purposes stated in § 244.21 (c). The service fee will not be returnable. No application service fee will be required of States or agencies or instrumentalities thereof or of Government agencies.

2. The present text of § 244.18 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 244.18 *Transfer of right-of-way.* (a) * * *

(b) All filings of transfers, by assignment, lease, operating agreement, or otherwise, made pursuant to this section, except by States or agencies or instrumentalities thereof, must be accompanied by an application service fee of $10 which will not be returnable.

Subchapter T—Sale, Lease, or Use, and Acquisitions

PART 251—AIRPORTS AND AVIATION FIELDS

Section 251.4 is amended as follows:

§ 251.4 *Applications for lease.*[1] (a) Applications should be filed in the proper land office. For lands in a State for which there is no land office, applications should be filed with the Bureau of Land Management, Washington 25, D. C. Applications for lands in North Dakota or South Dakota should be filed in the land office at Billings, Montana; for lands in Nebraska or Kansas in the land office at Cheyenne, Wyoming; and for lands in Oklahoma in the land office at Santa Fe, New Mexico.

(b) Applications will be limited to citizens of the United States or associations of such citizens; to corporations organized under the laws of the United States or of any State or Territory thereof; and municipalities.

(c) No specific form of application is required, and no blanks will be furnished; but the application, which must be signed by the applicant, but need not be under oath, should include in substance the following points:

(1) Applicant's name and post office address.

(2) If a corporation, a certified copy of the articles of incorporation.

(3) If a city or town, evidence of authority of the mayor or other officer who may be authorized to execute such lease.

(4) Description of the land for which the lease is desired, by legal subdivisions if surveyed, or by metes and bounds if unsurveyed.

(d) All applications filed by individuals, associations and corporations must be accompanied by an application service fee of $10 which will not be returnable. No application service fee will be required of a municipality or a corporation which is an instrumentality of the United States, or a State or Territory thereof.

PART 255—TOWN SITES

1. The present text of § 255.11 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 255.11 *Filing in land office, in duplicate, of transcript of plat, field notes and statement.* * * *

(b) All filings made in accordance with this section must be accompanied by a service charge of $5 which will not be returnable.

2. The present text of paragraph (b) of § 255.16 is redesignated as paragraph (c) and a new paragraph (b) substituted, as follows:

§ 255.16 *Preemption claims, publishing and posting of proof notices.* * * *

(b) All notices of intention to make proof of preemption claims pursuant to this section must be accompanied by a service charge of $5 which will not be returnable.

PART 258—SPECIAL LAND-USE PERMITS FOR PUBLIC LANDS WITHIN OR OUTSIDE OF GRAZING DISTRICTS

1. Section 258.5 is revised so as to read as follows:

§ 258.5 *Fees.* All applications for special land use permits or renewal thereof, where the applicant is an individual, corporation or association, must be accompanied by an application service fee of $10 which will not be returnable. No charge will be made for applications by agencies of the Federal Government, or agencies of the States and political subdivisions thereof.

2. The present text of § 258.13 is designated as paragraph (a) and a new paragraph (b) added as follows:

§ 258.13 *Assignment of permit.* (a) * * *

(b) All applications for assignment of special land use permits must be accompanied by an application service fee of $10 which will not be returnable.

3. Paragraph (a) of § 258.20 is revised to read as follows:

§ 258.20 *Fees and charges.* (a) All applications for a permit to erect one or more advertising displays on public lands must be accompanied by an appli-

cation service fee of $10 which will not be returnable.

4. The present text of § 258.22 is designated as paragraph (a) and a new paragraph (b) added, as follows:

§ 258.22 *Renewal of permit.* * * *

(b) All applications for permit renewal made in accordance with this section must be accompanied by an application service fee of $10 which will not be returnable.

(Sec. 501, 65 Stat. 290; 5 U. S. C. 140)

FRED A. SEATON,
Secretary of the Interior.

MAY 13, 1958.

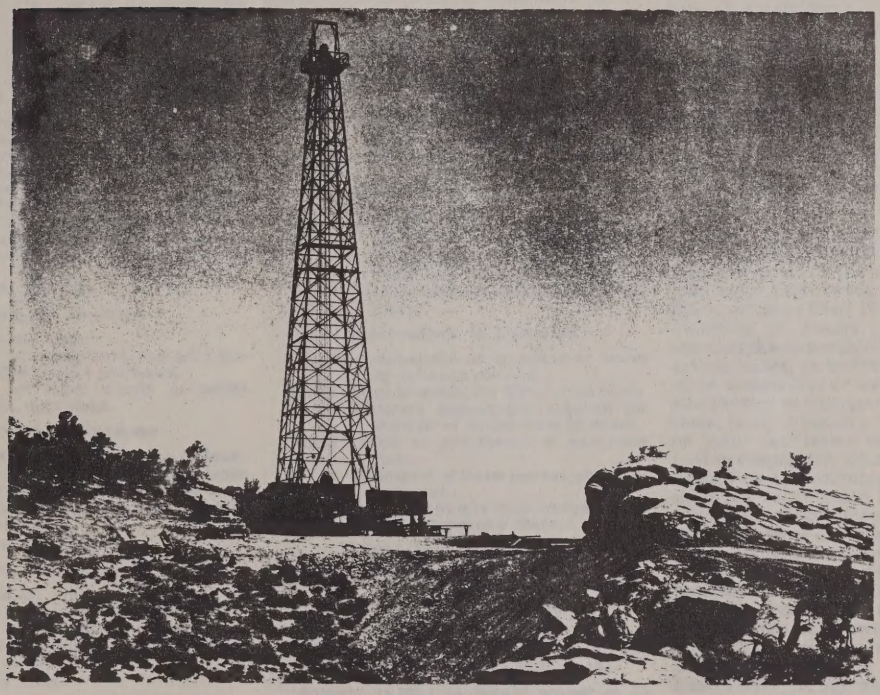
[F. R. Doc. 58-3751; Filed, May 19, 1958; 8:49 a. m.

GPO 842-221 GPO 931402

Circular 2002

REGULATIONS
FOR
OIL AND GAS LEASING
- ON -
FEDERAL PUBLIC LANDS

PART 192, TITLE 43,
Code of Federal Regulations



DEPARTMENT
OF THE INTERIOR

BUREAU OF
LAND MANAGEMENT

MAY 20, 1958

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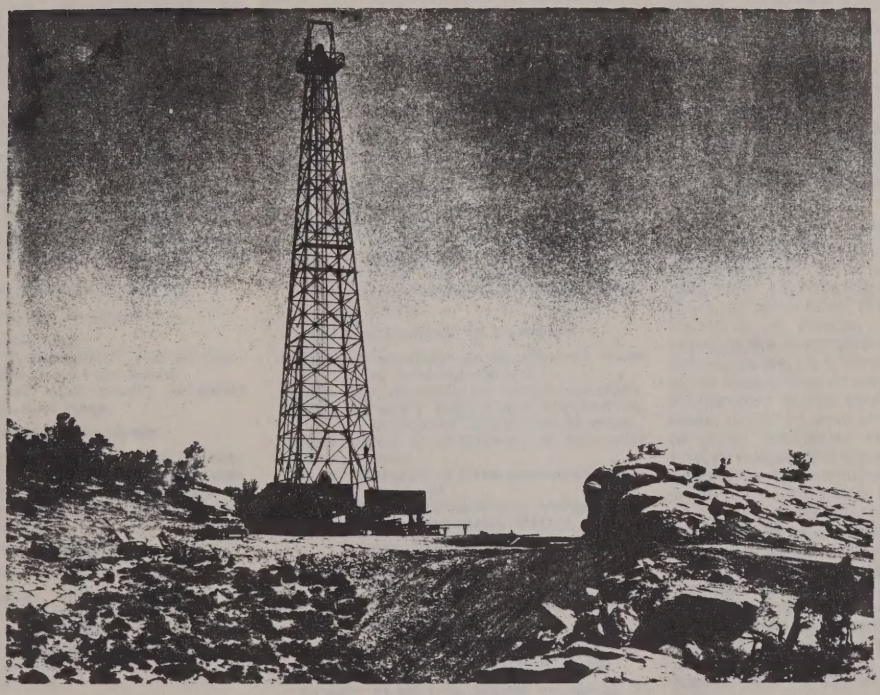

DEPARTMENT
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REGULATIONS

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PART 192, TITLE 43,
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DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MAY 20, 1958

TITLE 43--PUBLIC LANDS
INTERIOR

Chapter 1--Bureau of Land Management, Department of the Interior

Circular 2002

PART 192--OIL AND GAS LEASES

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AUTHORITY: §§ 192.1 to 192.161 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189.

SOURCE: §§ 192.1 to 192.161 appear at 19 F. R. 9011, Dec. 23, 1954, except as otherwise noted.

GENERAL PROVISIONS

§ 192.1 *Applicability of amendatory act to existing leases.* Prior to the filing of the notice of election hereinafter referred to, the act of August 8, 1946 (60 Stat. 950; 30 U. S. C. 181) applies to leases issued prior to the date of that act only where the amendatory act so provides. The owner of any lease issued prior to August 8, 1946, may elect pursuant to section 15 to come entirely under the provisions of that act by filing a notice of election to have his lease governed by the amendatory act, accompanied by the consent of the surety if there is a bond covering the lease. A notice of election so filed shall constitute an amendment of all provisions of the lease to conform with the provisions of the amendatory act and the regulations issued hereunder.

§ 192.2 *Helium.* The ownership of and the right to extract helium from all gas produced from lands leased or otherwise disposed of under the act have been reserved to the United States. Appropriate provision is made in leases with respect to the recovery of helium.

§ 192.3 *Acreage limitations on leases.* (a) No person, association, or corporation, except as in the act provided, may hold more than 46,080 acres in any one State, or more than 100,000 acres in the Territory of Alaska, whether directly through the ownership of leases or interests in leases, or indirectly as a member of an association or associations, or as a stockholder of a corporation, or corporations, holding leases or interests therein or both. All leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall not be included in computing accountable acreage under section 27 of the act. All leases operated under an operating, drilling, or development contract approved by the Secretary of the Interior pursuant to section 17 (b) of the act, and interests thereunder, other than communitization agreements, and all leases issued under sections 18 and 19 of the act shall be excepted in determining the lessees' and the operators' acreage holdings or control under the provisions of any section of this act.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be such party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part

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of the corporation's or association's accountable acreage. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

(c) No lease will be issued and no transfer will be approved until it has been shown pursuant to the requirements of § 192.42 (e) (4) that the lessee or transferee is entitled to hold the acreage. Any party found to hold or control accountable acreage computed in accordance with the principles above set forth in excess of the prescribed limitations shall be given thirty days within which to file proof of the reduction of his holdings or control so as to conform with the prescribed limitation.

§ 192.4 *Acreage limitations on options.* (a) Acreage held under a nonrenewable option, valid only for three years or such longer period as may be authorized by the Secretary, shall not be chargeable under § 192.3, but no optionee may hold options at any one time for more than 200,000 acres in any one State, or in the Territory of Alaska.

(b) No such option shall be taken for more than three years without the prior approval of the Secretary of the Interior, except that an option hereafter taken on a lease application or offer may be for the period of time until issuance of the lease and three years thereafter. Where it is sought to obtain options for periods in excess of those provided in the preceding sentence, an application should be filed with the Director, Bureau of Land Management, accompanied by a complete showing as to the special or unusual circumstances which are believed to justify approval of the application by the Secretary.

(c) Within the meaning of this section, options may be taken only on lands embraced in leases and offers or applications for leases and the acreage included in any such option taken upon an application or offer for a lease shall be chargeable from and after the date of such option.

(d) It shall be permissible for any such option to provide that where all or any part of the land covered thereby is included in a cooperative or unit plan (as defined in § 192.20) duly executed by the parties and submitted to the Secretary for final approval prior to the expiration of the three-year option period, then, as to that part of the land covered by said option which is included in said cooperative or unit plan, such option shall not expire until a date 30 days after the date of final approval or disapproval by the Secretary of that cooperative or unit plan.

(e) Each optionee must file with the Director, Bureau of Land Management, within 90 days after December 31 and June 30 of each year, a statement showing as of the prior December 31 and June 30, respectively, (1) name of optioner and serial number of lease, application or offer for lease subject to the option (2) date and expiration date of each option, (3) number of acres covered by each option, and (4) aggregate number of options held in each State and total acreage thereof.

(f) If the statement shows or it is otherwise ascertained that the optionee holds options in excess of the prescribed limitation, he will be given 30 days within which to file proof of reduction of his option holdings to the limitations prescribed by the act.

§ 192.5 *Lands within one mile of naval petroleum or helium reserves.* No oil and gas lease will be issued for land within one mile of the exterior boundaries of a naval petroleum or a helium reserve, unless the land is being drained of its oil or gas deposits or helium content by wells on privately owned land or unless it is determined by the authorized officer, after consultation with the agency exercising jurisdiction over the reserve, that operations under such a lease will not adversely affect the reserve through drainage from known productive horizons.

§ 192.6 *Boundaries of known geologic structures and productive limits of producing oil or gas fields and deposits.* The Director of the Geological Survey will determine the boundaries of the known geologic structures of producing oil or gas fields and, where necessary to effectuate the purposes of the act, the productive limits of producing oil or gas deposits as such limits existed on August 8, 1946. Maps or diagrams showing the boundaries of known geologic structures of producing oil or gas fields and of the productive limits of producing oil or gas deposits will be placed on file in the appropriate land office, and office of the oil and gas supervisor. Any lessee or his operator may apply to have a determination made as to whether or not the land upon which he intends to drill a well is inside or outside the productive limits of a producing oil or gas deposit. The application should be accompanied by all available geologic data which in his opinion have a bearing on the matter.

§ 192.7 *Agreements to compensate for drainage.* Upon a determination by the Director of the Geological Survey that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, the authorized officer of the Bureau of Land Management, may execute agreements with the owners of adjacent lands whereby the United States, or the United States and its lessees, shall be compensated for such drainage, such agreements to be made with the consent of any lessee affected thereby. The precise nature of any agreement will depend on the conditions and circumstances involved in the particular case.

§ 192.8 *Protection of leased lands from drainage.* (a) Where land in any lease is being drained of its oil or gas content by a well either on a Federal lease issued at a lower rate of royalty or on land not the property of the United States, the lessee must drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling such wells, the lessee may, with the consent of the Director of the Geological Survey, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

(b) The payment of compensatory royalty under this section or § 192.7 shall extend the primary or extended term of any lease for the period during which such compensatory royalty is paid, and for a period of one year from the discontinuance of such payment, and for so long thereafter as oil or gas is produced in paying quantities.

§ 192.9 *Leasing of wildlife refuge lands, game range lands and coordination lands*—(a) *Definitions*—(1) *Wildlife refuge lands.* Such lands are those embraced in a withdrawal of public domain and acquired lands of the United States for the protection of all species of wildlife within a particular area. Sole and complete jurisdiction over such lands for wildlife conservation purposes is vested in the United States Fish and Wildlife Service even though such lands may be subject to prior rights for other public purposes or, by the terms of the withdrawal order, may be subject to mineral leasing.

(2) *Game range lands.* Game ranges created by a withdrawal of public lands and reserved for dual purposes, namely protection and improvement of the public grazing lands and natural forage resources and conservation and development of natural wildlife resources, are under the joint jurisdiction of the Bureau of Land Management and the United States Fish and Wildlife Service.

(3) *Coordination lands.* These lands are withdrawn or acquired by the Government and made available to the States by cooperative agreements entered into between the United States Fish and Wildlife Service and the game commissions of the various States, in accordance with the act of March 10, 1934 (48 Stat. 401), as amended by the act of August 14, 1946 (60 Stat. 1080), or by long-term leases or agreements between the Department of Agriculture and the game commissions of the various States pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, where such lands were subsequently transferred to the Department of the Interior, with the United States Fish and Wildlife Service as the custodial agency of the Government.

(4) *Alaska wildlife areas.* Such lands are areas in Alaska created by a with-

drawal of public lands for the management of natural wildlife resources and administered by the United States Fish and Wildlife Service.

(b) *Leasing policy and procedure.* (1) No offers for oil and gas leases covering wildlife refuge lands will be accepted and no leases covering such lands will be issued except as provided in subparagraph (2) of this paragraph.

(2) In instances where it is determined by the Geological Survey that any of the lands mentioned in paragraph (a) (1), or any of the lands mentioned in paragraph (a) (2), (3) and (4) of this section and defined in this section as not available for leasing are subject to drainage, the Bureau of Land Management, with the concurrence of the United States Fish and Wildlife Service, will process an offering inviting competitive bids in accordance with the then existing regulations relating to competitive oil and gas leasing. Such leases shall be issued only upon approval by the Secretary of the Interior and shall contain such stipulations as are necessary to assure that leasing activities and drilling shall be carried out in such a manner as will result in a minimum of damage to wildlife resources.

(3) As to game range lands and Alaska wildlife areas, representatives of the appropriate office of the Bureau of Land Management and the United States Fish and Wildlife Service will confer for the purpose of entering into an agreement specifying those lands which shall not be subject to oil and gas leasing. No such agreement shall become effective, however, until approved by the Secretary of the Interior. As to coordination lands, representatives of the Bureau of Land Management and the United States Fish and Wildlife Service will, in cooperation with the authorized members of the various State game commissions, confer for the purpose of determining by agreement those lands which shall not be subject to oil and gas leasing.

(4) The remaining lands in paragraph (a) (2) and (4) of this section not closed to oil and gas leasing will be subject to leasing on the imposition of such stipulations agreed upon by the Fish and Wildlife Service and the Bureau of Land Management. The remaining lands in paragraph (a) (3) of this section not closed to oil and gas leasing will be subject to leasing on the imposition of such stipulations agreed upon by the State Game Commission, the United States Fish and Wildlife Service, and the Bureau of Land Management.

(c) *Publication and filing of agreements; filing of lease offers.* The agreements referred to in paragraph (b) (3) of this section shall be published in the FEDERAL REGISTER and shall contain a description of the lands affected thereby which are not subject to oil and gas leasing, together with a statement of the stipulations agreed upon by the parties thereto for inclusion in such leases to assure that all operations under the lease shall be carried out in such a manner as will result in a minimum of damage to wildlife resources. The agreements, as supplemented by maps or plats specifically delineating the lands will be filed in the appropriate land offices of the Bureau of Land Management where they may be inspected by the public at the usual hours specified for that purpose. Lease offers for such lands will not be accepted for filing until the tenth day after the agreements and supplemental maps or plats are noted on the land office records.

(d) *Suspension of pending applications.* All pending offers or applications heretofore filed for oil and gas leases covering game ranges, coordination lands, and Alaska wildlife areas, will continue to be suspended until the agreements referred to in paragraph (b) (3) of this section shall have been completed.

(e) *Lands in requested withdrawal.* All existing offers or applications for oil and gas leases covering lands included in requests for withdrawals for wildlife refuges, game ranges, coordination lands or Alaska wildlife areas, as defined herein, shall be suspended until after the consummation of the withdrawal, and thereafter such offers shall be considered in accordance with the provisions of this section.

COOPERATIVE CONSERVATION PROVISIONS

§ 192.20 *Cooperative or unit plans.*[1] The act authorizes lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of such pool, field, or like area is then subject to any cooperative or unit plan of development or operation). The agreement must be for the purpose of more properly conserving the natural resources of any such oil or gas pool, field, or area covered thereby and must be determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary, with the consent of the lessees, is authorized to establish, alter, change or revoke drilling, producing, rental, minimum royalty, and royalty requirements of the leases and to make such regulations with reference to such leases as he may deem necessary or proper to secure the protection of the public interest. All leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall be excepted in determining acreage charges.

[1] For the extension of leases committed to a unit plan, see § 192.122.

§ 192.21 *Application for approval of plan.* The procedure in obtaining approval of a cooperative or unit plan of development including suggested text of an agreement acceptable to the Department is contained in 30 CFR Part 226, "Unit or Cooperative Agreements". All applications to unitize and all documents incident thereto shall be filed in the office of the oil and gas supervisor, Geological Survey, for the region in which the unit area is situated.

§ 192.22 *Communitization or drilling agreements.* (a) The Secretary is authorized when separate tracts under lease cannot be independently developed and operated in conformity with an established well-spacing or well-development program, to approve communitization or drilling agreements for the lease or any portion thereof with other lands, whether or not owned by the United States, when in the public interest. Operations or production pursuant to such an agreement shall be deemed to be operations or production as to each lease committed thereto.

(b) Preliminary requests to communitize separate tracts shall be filed in triplicate with the oil and gas supervisor and executed agreements shall be submitted in sufficient number to permit retention of five copies by the Department after approval.

(c) The agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of all parties, including the United States. The agreement must be signed by or in behalf of all necessary parties and will be effective only after approval by the Secretary of the Interior as provided therein.

§ 192.23 *Approval of operating, drilling, or development contracts without regard to acreage limitations.* (a) The authority of the Secretary to approve operating, drilling, or development contracts without regard to acreage limitations ordinarily will be exercised only to permit operators or pipe-line companies to enter into contracts with a number of lessees sufficient to justify operations on a large scale for the discovery, development, production, or transportation of oil or gas and to finance the same.

(b) A contract submitted for approval under this provision should be filed with the appropriate land office manager, Bureau of Land Management, together with enough copies to permit retention of 5 copies by the Department after approval. It should be accompanied by a statement showing all the interests held

by the contractor in the area or field and the proposed or agreed plan of operation or development of the field. All the contracts held by the same contractor in the area or field should be submitted for approval at the same time, and full disclosure of the project made. Complete details must be furnished in order that the Secretary may have facts upon which to make a definite determination in accordance with the provisions of the act, and prescribe the conditions on which approval of the contracts is made.

§ 192.24 *Combinations for joint operation of refinery, or for transportation of oil.* Upon obtaining the approval of the Secretary, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells or from the wells of other lessees, or to increase the acreage which may be acquired or held under the provisions of section 17 of the act relating to competitive leases. An application under this section, together with enough copies to permit retention of 5 copies by the Department after approval should be filed with the Director, Bureau of Land Management. The application must show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of oil and gas which would be inconsistent with the anti-monopoly provisions of the law.[2]

§ 192.25 *Subsurface storage of oil or gas.* (a) In order to avoid waste or to promote conservation of natural resources, the Secretary of the Interior, upon application by the interested parties, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under the act. Such authorization will provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease used for the storage of oil or gas shall be extended for the period of such storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(b) Applications for subsurface storage shall be filed in triplicate with the oil and gas supervisor and shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental, or royalty offered to be paid for such storage and all essential information showing the necessity for such project. Enough copies of the final agreement signed by the parties in interest shall be submitted for the approval of the Secretary to permit retention of 5 copies by the Department after approval.

ISSUANCE OF LEASES

§ 192.40 *Classes and term.* All lands subject to disposition under the act which are known or believed to contain oil or gas may be leased by the Secretary of the Interior. When within the known geologic structure of a producing oil or gas field, such land may be leased only by competitive bidding and in units of not exceeding 640 acres to the highest responsible qualified bidder at a royalty of not less than 12½ per cent. Leases for not to exceed 2,560 acres, except where the rule of approximation applies, within a six-mile square, may be issued for all other land subject to the act to the first qualified offeror at a royalty of 12½ percent. All leases, except those issued as renewals of 20-year leases, will be issued for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities.

§ 192.40a *Dating of competitive and noncompetitive oil and gas leases.* All competitive and noncompetitive oil and gas leases, excepting renewal leases, will be dated as of the first day of the month following the date the leases are signed on behalf of the lessor except that where prior written request is made a lease may be dated the first of the month within which it is so signed.

§ 192.41 *Leases for lands wholly or partly within unit areas.* (a) Before issuance of an oil and gas lease for lands within an approved unit agreement, the lease applicant or offeror or successful bidder will be required to file evidence that he has entered into an agreement with the unit operator for the development and operation of the lands in his lease under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, he will be permitted to operate independently but will be required to conform to the terms and provisions of the agreement with respect to such operations.

(b) In case an application or offer for a noncompetitive lease embracing lands partly within and partly without the exterior boundaries of a unitized area is found acceptable, separate leases will be issued, one embracing the lands within the unit area, and one the lands outside of such area.

NONCOMPETITIVE LEASES

§ 192.42 *Offer to lease, and issuance of lease.* (a) To obtain a non-competitive lease an offer to accept such lease must be made on Form 4–1158, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: *Provided,* That the copies are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. Form 4–1158 or a valid reproduction of the official form will also constitute the lease when signed by the Manager of the Land Office.

(b) Five copies of Form 4–1158, or valid reproduction thereof, for each offer to lease shall be filed in the proper land office, or for land or deposits in States for which there are no land offices, with the Director of the Bureau of Land Management, Washington 25, D. C.[3] If less than five copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period, the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

(c) The offeror shall mark one of the copies first filed at the top with the word "original." If that is not done, the manager will so mark one copy. If there is any variation in the land descriptions among the five copies, the copy marked "original" shall govern as to the lands covered by the lease.

(d) Each offer must be filled in on a typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for the benefit of a non-alien minor or minors but an offer may not be filed by a minor. Each offer must describe the lands by legal subdivision, section, township, and range, if the lands

[2] Rights-of-way for oil and gas pipe lines may be granted as provided for in §§ 244.60 to 244.66 of this chapter.

[3] Offers for lands or mineral deposits in the following States should be filed at the land office named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma, at Santa Fe, New Mexico.

are surveyed, and if not surveyed, by a metes and bounds description connected with a corner of the public land surveys by course and distance and must cover only lands entirely within a six-mile square. Each offer must be for an area of not more than 2,560 acres except where the rule of approximation applies, and may not be for less than 640 acres except in any one of the following instances:

(1) Where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or such a plan which has been approved as to form by the Director of the Geological Survey.

(2) Where the land is surrounded by lands not available under the act.

(e) Each offer, when first filed, shall be accompanied by:

(1) A filing fee of $10 which will be retained as a service charge, except as provided in paragraph (g) of this section, even though the offer should be rejected or withdrawn in whole or in part.

(2) Full payment of the first year's rental based on the total acreage if known, and if not known, on the basis of 40 acres for each smallest legal subdivision.

(3) Except in a case where an officer of a corporation signs an offer on behalf of the corporation (as to which see paragraph (f) (2) of this section), evidence of the authority of the attorney in fact or agent to sign the offer and lease, if the offer is signed by such attorney or agent on behalf of the offeror; and in addition, if such offeror is an individual, a statement over the offeror's signature setting forth the offeror's citizenship and whether the offeror's direct and indirect interests in oil and gas leases, applications, and offers therefor, exceeds 46,080 chargeable acres in the same State, or exceeds 100,000 acres in the Territory of Alaska.

(4) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in an operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers therefor exceeds 46,080 chargeable acres in the same State, or exceeds 100,000 acres in the Territory of Alaska. This requirement does not apply in cases in which the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or a stockholder in the corporation.

(5) If the offer is made by a guardian or trustee, a certified copy of the court order authorizing him to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; his statements as to the citizenship and holdings of each of the minors; and a similar statement as to his own citizenship and holdings under the leasing act, including his holdings for the benefit of other minors.

(6) If the offer is made by an association (including a partnership), it must be accompanied by a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph, an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description is insufficient to identify the lands or the lands are not entirely within a 6-mile square.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies or is less than 640 acres or the equivalent of a section and is not within the exceptions in paragraph (d) of this section.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than five copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) and (e) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(h) An offer may not be withdrawn, either in whole or in part, unless the withdrawal is received by the land office before the lease, an amendment of the lease, Form 4–1163, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(i) The United States will indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease by the signature of the appropriate officer thereof in the space provided. An executed copy of the lease will be mailed to the offeror at the address of record.

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless before the issuance of the amendment to Form 4–1158 the land office receives a withdrawal of the offer as to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on Form 4–1158 describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a.

(k) A transfer of the whole interest in all or any part of the offer may be approved as an incident to the transfer, by assignment or otherwise, of the whole interest in all or any part of the lease. A transfer of an undivided fractional interest in the whole offer may be approved as an incident to the transfer of an undivided fractional interest in the whole lease. An application for approval of a transfer of an offer must include a statement that the transferee agrees to be bound by the offer to the extent that it is transferred and must be signed by the transferee. In other instances transfers of an offer will not be approved prior to the issuance of a lease for the lands or deposits covered by the said transfers.

(l) If an offeror dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not required, to the heirs or devisees, provided there is filed in all cases an offer to lease in compliance with the requirements of this section which will be effective as of the effective date of the original application or lease offer filed by the deceased. If there are any minor heirs or devisees, such offer can only be made by their legal guardian or trustee in his name. Each such offer must be accompanied by the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person who as executor or administrator submits the offer, and bond form if a bond is required, has authority to act in that capacity and to sign the offer and bond forms.

(ii) A statement over the signature of each heir or devisee, similar to that required of an offeror under paragraph (e) (4) of this section concerning citizenship and holdings.

(iii) Evidence that the heirs or devisees are the heirs or devisees of the deceased offeror and are the only heirs or devisees of the deceased.

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the offeror and the provisions of the law of the deceased's last domicile showing that no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship, similar to that required under paragraph (e) (4) of this section, except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(m) No lease shall be issued before final action has been taken on (1) any prior offer to lease the land, (2) any subsequent offer to lease the land that is based upon an alleged preferential right, and (3) any petition for the renewal or reinstatement of an existing or former lease on the land. If a lease is issued before final action has been taken on such an offer or petition, it shall be canceled, after due notice to the lessee, if the offeror or petitioner is found to be qualified and entitled to receive a lease on the land.

§ 192.43 *Availability of lands to further lease offers where noncompetitive lease is cancelled, relinquished or terminated.* (a) Where the lands embraced in a relinquished or cancelled noncompetitive lease are not on the known geologic structure of a producing oil and gas field, and are not withdrawn from leasing, such lands become available for, and subject to, filings of new lease offers immediately upon the notation of the cancellation or relinquishment on the tract book, or, for acquired lands, on the official records relating thereto, of the appropriate land office. If prior to such notation, the lease term would have expired in the absence of the cancellation or relinquishment, the lands shall, upon such expiration of the lease term, become subject to the filing of lease offers even though the notation of the cancellation or relinquishment has not been made on the records. See § 192.120 (f) and (g) for the availability for new filings of lands in a lease for which an application for extension has or has not been timely filed; also, see § 192.161 (a) for the availability for new filings of lands in a lease subject to the automatic termination provisions of the act of July 29, 1954 (68 Stat. 583; 30 U. S. C. 188), for lessee's failure timely to pay the lease rental.

(b) Offers to lease which are received in the same mail or over the counter at the same time, will be considered as having been filed simultaneously, and priority to the extent of the conflicts between them will be determined by a public drawing in accordance with the provisions of § 295.8 of this chapter.

§ 192.44 *Pending applications.* Applications filed prior to the effective date of the regulations in this part will be processed in accordance with the regulations in effect immediately prior to such date and leases will continue to be issued in such cases on Form 4–213, except:

(a) An applicant may, without losing his priority, file Form 4–1158 "Offer and Lease Form" for the land described in his application, pursuant to § 192.42, but without paying the required filing fee, and

(b) From the date of issuance of the regulations in this part until their effective date, Form 4–1158, or unofficial copies thereof, which are exact reproductions on one page of both sides of the official approved one page form, if available, may be filed instead of filing new applications under the prior regulations.

COMPETITIVE LEASES

§ 192.50 *Designation and offer of lands for lease by competitive bidding.* The lands and deposits subject to disposition under the act which are within the known geologic structure of a producing oil or gas field will be divided into

leasing blocks or tracts in units of not exceeding 640 acres each, which shall be as nearly compact in form as possible, and offered for lease at a royalty and rental to be specified in the notice of sale, to the qualified person who offers the highest bonus by competitive bidding either at public auction, or by sealed bids as provided in the notice of sale.

§ 192.51 *Notice of lease offer.* Notice of the offer of lands for lease will be by publication once a week for five consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated, or in such other publications as the authorized officer of the Bureau of Land Management may authorize. The notice published in a newspaper of general circulation in the county will contain a statement that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of that notice which shall be that portion of the total advertising cost that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared. The notice will also state the time and place of sale, the manner in which bids may be submitted, the description of the lands, and the terms and conditions of the sale.

§ 192.52 *Qualifications of successful bidder.* The successful bidder at a sale by public auction must on the day of the sale, deposit with the manager of the land office or other officer conducting the sale, and each bidder, if the sale is by sealed bids, must submit with his bid the following: Certified check on a solvent bank, money order, or cash, for one-fifth of the amount bid by him and a statement over the bidder's own signature with respect to citizenship and interests held, similar to that required of an offeror under § 192.42 (e) (3). If the successful bidder is a corporation, it must also file a statement similar to that required by § 192.42 (f).

§ 192.53 *Award of lease.* Following receipt of the report of the auction, or the opening of the sealed bids, the authorized officer, subject to his right to reject any or all bids, will award the lease to the successful bidder. Notice of his action will be forthwith transmitted to the interested parties through the local office. If the lease be awarded, three copies of the lease will be sent to the successful bidder and he will be required within 30 days from receipt thereof to execute them, pay the balance of his bonus bid, the first year's rental, and file a bond as required in § 192.100. If any bid be rejected, the deposit will be returned. If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under this act. If the lease awarded to the successful bidder is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease.

If two or more units are awarded to any bidder, such units, where the acreage does not exceed 640 acres, may be included in a single lease if circumstances warrant.

§ 192.54 *Form of lease.* Competitive leases will be issued on Form 4–213 and the rentals and royalties payable thereunder will be set forth in Schedule "B" affixed thereto and made a part thereof.

EXCHANGE AND RENEWAL LEASES

§ 192.60 *Application to exchange lease for a new lease.* Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease will be issued for a primary term of 5 years and so long thereafter as oil or gas is produced in paying quantities and will contain the rental and royalty rates prescribed in §§ 192.80, 192.81 and 192.82. An application to exchange a lease for a new lease should be filed in triplicate by the lessee with the manager of the appropriate land office and must show full compliance by the applicant with the terms of the lease and applicable regulations.

§ 192.61 *Application for renewal.* (a) Twenty year leases or renewals thereof may be renewed for successive terms of 10 years at the rental and royalty rates specified for such renewal leases in §§ 192.80, 192.81 and 192.82. An application to renew should be filed in triplicate, in the proper office as prescribed in § 192.42 (b), at least 90 days, but not more than six months, prior to the expiration of its term. Such application should be made by the record title holder or holders of the lease and may be joined in or consented to by the operator of record. The application should show whether all moneys due the United States have been paid and whether operations under the lease have been conducted in accordance with the regulations of the Department.

(b) The applicant or his operator shall furnish in triplicate with the application for renewal, copies of all agreements not theretofore filed providing for overriding royalties or other payments out of production from the lease which will be in existence as of the date of its expiration. When such payments, including overriding royalties, are in excess of 5 per cent of gross production a detailed statement of the income from and costs of operation of the lease for the twelve month period immediately preceding the month in which the application for renewal is filed must also be furnished.

§ 192.62 *Action on application.* If the outstanding obligations in excess of five per cent of gross production payable from production do not constitute a burden on the lease prejudicial to the interests of the United States, they will not be considered a bar to its renewal but any lease that may be issued will be upon the condition, to be incorporated in the lease, that if and when the costs of operations, including the payment of overriding royalties or payments out of production, shall be determined by the authorized officer of the Bureau of Land Management to constitute such a burden such royalties and payments shall be reduced to not more than 5 per cent of the value of the production. If no objection to the renewal of the lease appears, copies of a renewal lease, in triplicate, dated the first day of the month in which the original lease terminated, will be forwarded to the lessee for execution. If upon receipt of the executed lease forms and a satisfactory lease bond, the lease is executed, one copy thereof will be delivered to the lessee.

If a determination is made that overriding royalties and payments out of production in excess of 5 percent of gross production constitute a burden on lease operations to the extent that proper and timely development will be retarded, or continued operation of the lease impaired, or premature abandonment of the wells caused, the lease application will be suspended and the parties in interest will be offered an opportunity to reduce the excessive overriding royalties or other payments out of production to not more than 5 percent of the value of the production. If the holders of outstanding overriding royalty or other interests payable out of production, the operator, and the lessee are unable to enter into a mutually fair and equitable agreement, any of the parties may apply for a hearing at which all interested parties may be heard and written statements presented. Thereupon a final decision will be rendered by the Department outlining the conditions acceptable to it as a basis for a fair and reasonable adjustment of the excessive overriding royalties and other payments out of production, and an opportunity will be afforded within a fixed period of time to submit proof that such adjustment has been effected. Upon failure to submit such proof within the time so fixed, the application for renewal will be denied.

§ 192.63 *Form of lease.* Renewal and exchange leases will be issued on Form 4–213. The rentals and royalties payable thereunder will be set out on Schedule C or D as may be appropriate, which schedule is attached thereto and made a part thereof.

LEASE ON PATENTED OR ENTERED LAND

§ 192.70 *Preference right of patentee or entryman to a lease.* (a) An entryman or patentee who made entry prior to February 25, 1920, or an assignee of such entryman or a vendee of such patentee if the assignment or conveyance was made prior to January 1, 1918, for lands not withdrawn or classified or known to be valuable for oil and gas at date of entry shall be entitled, if the

entry or patent is impressed with a reservation of the oil or gas, to a preference right to a lease for the land. A settler whose settlement was made prior to February 25, 1920, on land in the same status but which has since been withdrawn, classified, or is known to contain oil or gas, also has such a preference right.

(b) Any offeror for a lease to lands owned, entered or settled upon as stated above must notify the person entitled to a preference right of the filing of the offer and of the latter's preference right for 30 days after notice to apply for a lease. If the party entitled to a preference right files a proper offer within the 30-day period, he will be awarded a lease; but if he fails to do so, his rights will be considered to have terminated.

§ 192.71 *Lands in entries or claims not impressed with a reservation of oil and gas.* (a) Where an offer is filed to lease lands noncompetitively in an entry or settlement claim not impressed with an oil or gas reservation, the offer will be rejected unless it is found that the land is prospectively valuable for oil or gas. An offeror for a lease for land already embraced in a nonmineral entry without a reservation of the mineral, and likewise a nonmineral entryman or settler who is contending that the land is nonmineral in character should submit with their respective offer and application, showings of as complete and accurate geologic data as may be procurable, preferably the reports and opinions of qualified experts.

(b) Should the land be found to be prospectively valuable for oil or gas, the entryman or settler will be required to consent to a reservation of the oil or gas to the United States or to contest the mineral finding. If he does neither, the entry will be canceled or his settlement rights denied. If he consents, or contests the finding and is unsuccessful, a lease will be granted to the offeror, unless the entryman or settler has a preference right, but if the entryman or settler prevails in a contest, the offer will be rejected.

§ 192.72 *Showing required of oil and gas offerors for unsurveyed lands.* Every offeror for oil and gas lease for unsurveyed lands, must state in his offer that there are no settlers upon the land, or if there be settlers, give the name and post office address of each and a description of the lands claimed, by metes and bounds and approximate legal subdivisions.

RENTALS AND ROYALTIES

§ 192.80 *Rentals.* Rentals shall be payable in advance at the following rates:

(a) On noncompetitive leases issued under section 17 of the act, wholly outside of the known geologic structure of a producing oil or gas field:

(1) For the first lease year, 50 cents per acre or fraction thereof, except as to Alaska where the rate shall be 25 cents per acre or fraction thereof.

(2) For the second and third lease years, no rental.

(3) For the fourth and fifth years, 25 cents per acre or fraction thereof.

(4) For the sixth and each succeeding year, 50 cents per acre or fraction thereof, except as to Alaska where the rate shall be 25 cents per acre or fraction thereof.

(b) On leases wholly or partly within the known geologic structure of a producing oil or gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan that contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days notice to the lessee that all or part of the land is included in such a structure and for each year thereafter, prior to a discovery of oil or gas on the leased lands, rental of $1.00 per acre or fraction thereof.

(2) If issued noncompetitively under section 17 of the act, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental prescribed for the respective lease years in paragraph (a) of this section, shall apply to the acreage not within a participating area, except that the rental for the second and third lease years for such acreage shall be 25 cents per acre or fraction thereof.

(3) If issued competitively, an annual rental, prior to a discovery on the leased lands, of $1.00 per acre or fraction thereof, unless a different rate of rental is prescribed in the lease.

(c) On leases issued in any other way, an annual rental of $1.00 per acre or fraction thereof.

§ 192.81 *Minimum royalty.* On leases issued on or after August 8, 1946, and on those issued prior thereto if the lessee files an election under section 15 of the act of August 8, 1946, a minimum royalty of $1 per acre in lieu of rental, shall be payable at the expiration of each lease year after a discovery has been made on the leased lands, commencing with the lease year, beginning on or after the date of such discovery, except that on unitized leases the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $1 per acre the lessee must pay the difference at the expiration of the lease year.

§ 192.82 *Royalty on production.* (a) On and after August 8, 1946, the following royalty rates shall be paid on the production removed or sold from leases:

(1) 12½ percent royalty on noncompetitive leases issued under section 17 of the act: *Provided, however,* That any holder of a lease for lands in Alaska who shall drill and make the first discovery of oil or gas in commercial quantities in any geologic structure shall pay a royalty on all production under the lease of 5 percent for 10 years following the date of such discovery and thereafter the royalty rate shall be 12½ percent. If such lease is committed to an approved unit or cooperative plan under which such a discovery is made, the 5 percent rate herein provided shall, for the purpose of computing royalty due the United States, inure to the benefit of all the land to which an allocation is made under such plan.

(2) Such rates as are prescribed in the notice of sale in the case of all leases thereafter issued by competitive bidding.

(3) 12½ percent on all leases theretofore issued, except competitive leases, and on exchange and renewal leases thereafter issued, as to production from

(i) Land determined by the Director, Geological Survey, not to be within the productive limits of any oil or gas deposit on August 8, 1946.

(ii) An oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease and which is determined by the Director, Geological Survey, to be a new deposit.

(iii) Or allocated to a lease pursuant to an approved unit or cooperative agreement from an oil or gas deposit which was discovered on unitized land after May 27, 1941, and determined by the Director, Geological Survey, to be a new deposit, but only if at the time of discovery the lease or, in the case of an exchange lease, the lease for which it was exchanged was committed to the agreement or was included in a duly executed and filed application for approval of the agreement.

(4) From lands within exchange and renewal leases not subject to subparagraph (3) of this paragraph the rate of royalty shall be identical to that prescribed in the prior lease, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States the royalty shall be as follows:

(i) When the average production of

oil for the calendar month in barrels per well per day is:

Not over 110 the royalty shall be 12½%.
Over 110 but not over 130 the royalty shall be 18% of all production.
Over 130 but not over 150 the royalty shall be 19% of all production.
Over 150 but not over 200 the royalty shall be 20% of all production.
Over 200 but not over 250 the royalty shall be 21% of all production.
Over 250 but not over 300 the royalty shall be 22% of all production.
Over 300 but not over 350 the royalty shall be 23% of all production.
Over 350 but not over 400 the royalty shall be 24% of all production.
Over 400 the royalty shall be 25% of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide, and all other natural gases and mixtures thereof, and on natural or casinghead gasoline and other liquid products obtained from gas; when the average production of gas per well per day for the calendar month does not exceed 5,000,000 cubic feet, 12½ percent; and when the production of gas exceeds 5,000,000 cubic feet, 16⅔ percent of the amount or value of the gas and liquid products produced.

(5) In the case of competitive leases, and other leases theretofore issued, insofar as subparagraphs (3) and (4) of this paragraph are inapplicable, the rates specified in the lease.

(b) The average production per well per day for oil and for gas shall be determined pursuant to 30 CFR Part 221, "Oil and Gas Operating Regulations."

(c) In determining the amount or value of gas and liquid products produced, the amount or value shall be net after an allowance for the cost of manufacture. The allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only on approval by the Secretary of the Interior.

(d) The Secretary of the Interior may establish reasonable values for purposes of computing royalty on any or all oil, gas, natural gasoline, and other liquid products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters. In appropriate cases this will be done after notice to the parties and opportunity to be heard.

§ 192.83 *Limitation of overriding royalties.* Any agreement to create overriding royalties or payments out of the production of any lease which, when added to overriding royalties or payments out of production previously created and to the royalty payable to the United States, aggregate in excess of 17½ percent shall be deemed a violation of the terms of the lease unless such agreement expressly provides that the obligation to pay such excess overriding royalty or payments out of production shall be suspended when the average production per well per day averaged on the monthly basis is (a) as to oil, 15 barrels or less and (b) as to gas, 500,000 cubic feet or less. The limitations in this section will apply separately to any zone or portion of a lease segregated for computing Government royalty.

BONDS

§ 192.100 *Amount of bonds required of lessee.* (a) The successful bidder for a competitive lease prior to the issuance of the lease must furnish a corporate surety bond in the sum of at least double the amount of the $1 per acre annual rental but in no case less than $1,000 nor more than $5,000, conditioned on compliance with all the terms of the lease, and such a bond must also be filed when all or any part of the land in a lease issued non-competitively is included within the limits of a known geologic structure of a producing oil or gas field.

(b) Until a general lease bond is filed a noncompetitive lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights.

(c) All leases shall provide that where a $5,000 bond is not already being maintained a general lease bond in the penal sum of $5,000 conditioned upon compliance with all lease terms covering the entire leasehold, shall be furnished by the lessee prior to the beginning of drilling operations. An operator or, if there is more than one operator covering different portions of the lease, each operator may furnish a $5,000 general lease bond in his own name as principal on the bond in lieu of the lessee. Where there are one or more operator's bonds affecting a single lease, each such bond must be conditioned upon compliance with all lease terms for the entire leasehold. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee if he is not a party to the bond. An operator's bond will not be accepted unless the operator holds an operating agreement which has been approved by the Department or has pending an operating agreement in proper condition for approval. The mere designation as operator will not suffice.

(d) Bonds shall be either corporate surety bonds or personal bonds except that bonds with individual sureties as provided in § 191.13 of this chapter may be furnished for the protection of the entryman or owner of surface rights. Personal bonds must be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the conditions of the lease bond.

(e) In lieu of bonds required under any of the preceding paragraphs the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessees pending departmental approval of operating agreements, may furnish a bond the amount of which must be $150,000 for full nationwide coverage under both the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947 (61 Stat. 913; 30 U. S. C. 351–369), or at the rate of $25,000 for each unit of coverage. A unit of coverage shall be all the lands in any one State or Territory held by the principal under either the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands. Coverage under both acts in one State or Territory constitutes two units. In lieu of a surety bond, a personal bond in a like amount may be given by the obligor with the deposit as security therefor of negotiable bonds of the United States of a par value equal to the amount specified in the bond. Where upon a default, the surety makes payment to the Government of any indebtedness due under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment. Thereafter, upon penalty of cancellation of all of the leases covered by such bond the principal shall post a new nationwide bond in the amount of $150,000 or a unit bond, as the case may be, within 6 months after notice, or within such shorter period as the authorized officer of the Bureau of Land Management may fix. However, in lieu thereof, the principal may within that time file separate bonds for each lease. The provisions hereof may be made applicable to any nationwide or unit bond in force at the time of the approval of the amendment of this paragraph by filing in the appropriate land office a written consent to that effect and an agreement to be bound by the provisions hereof executed by the principal and the surety. Upon receipt thereof the bond will be deemed to be subject to the provisions of this paragraph.

§ 192.101 *Form of bonds.* Bonds furnished by lessees will be on Form 4–208g; those furnished by operators on Form 4–238; bonds furnished in lieu of other bonds, pursuant to § 192.100 (e), will be on Form 4–1167 for surety bonds or on Form 4–1168 for personal bonds.

CONTINUATION OR EXTENSION OF LEASE [4]

§ 192.120 *Single extension of a noncompetitive lease.* (a) Under the conditions set out in the following paragraphs of this section, the record title holder of any noncompetitive lease maintained in accordance with the statutory requirements and the regulations in this part shall be entitled to a single extension of the lease at the expiration of the initial five-year term unless then otherwise provided by law. An application for such extension may be filed by the record title holder of the lease, by an assignee whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

(b) The application for extension must be filed, within ninety days before the expiration date of the lease, on Form 4–1238, "Application for Extension of Oil and Gas Lease",[5] or unofficial copies of that form in current use and must be accompanied by a filing fee of $10 which will be retained as a service charge even though the application is later withdrawn or rejected and, unless previously paid, the sixth year's rental: *Provided,* That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes or advertising. Form 4–1238 or a valid reproduction of the official form, will also constitute approval of the extension when signed by an authorized officer.

(c) If during the 90 day period prior to the expiration date of the lease, the record title holder, assignee or operator files an application or request for an extension not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, or pay the sixth year's rental, a notice will be issued allowing him 30 days to do so. The application will be rejected if such filing or payment is not made within the time allowed.

(d) Where, upon the expiration of the initial 5-year lease term, the leased lands or any part thereof, have been withdrawn from leasing, the lease will not be extended as to such lands, except that, a withdrawal shall not affect the right to an extension if drilling operations were actually commenced on the withdrawn lands prior to the effective date of the withdrawal and such operations were being diligently prosecuted on the expiration date of the lease, or if notice of the withdrawal has not been sent by registered mail to each lessee to be affected thereby, at least 90 days prior to the termination date of the lease.

(e) Upon compliance with, and in accordance with, the provisions of this section, the lease will be extended, subject to the rules and regulations in force at the expiration of the initial term, (1) as to the lands not within the known geologic structure of a producing oil or gas field, for a period of 5 years, and so long thereafter as oil or gas is produced in paying quantities, and (2) as to lands within the known geologic structure of a producing oil or gas field, for a period of 2 years and so long thereafter as oil or gas is produced in paying quantities.

(f) The timely filing of an application for extension shall have the effect of segregating the leased lands until the final action taken on the application is noted on the tract book, or, for acquired lands, on the official records relating thereto, of the appropriate land office. Prior to such notation, the lands are not available to the filing of offers to lease. Offers to lease filed prior to such notation will confer no rights in the ofieror and will be rejected.

(g) Upon failure of the lessee or the other persons enumerated in paragraph (a) of this section to file an application for extension within the specified period, the lease will expire at the expiration of its primary term without notice to the lessee. The lands will thereupon become subject to new filings of offers to lease.

§ 192.121 *Continuation of lease on termination of production.* (a) A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

(b) No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice by registered mail from the Regional Oil and Gas Supervisor to do so: *Provided,* That after such status is established production shall continue on the leased premises unless and until suspension of production is allowed by the Secretary of the Interior under the provisions of the act.

§ 192.122 *Extension for terms of cooperative or unit plan.* (a) Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary of the Interior, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

(b) Any other lease issued under any section of the act, committed to any such plan that contains a general provision for the allocation of oil or gas, shall continue in effect as to the land committed so long as the lease remains subject to the plan: *Provided,* That production of oil or gas is had in paying quantities under the plan prior to the expiration date of such lease, whether it be in its primary term or its extended term.

(c) Any lease committed after July 29, 1954 to such a plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan and the other the lands not so committed. The segregated lease covering the nonunitized portion of the lands, shall continue in force and effect for the term thereof but for not less than two years from the date of segregation, and so long thereafter as oil or gas is produced in paying quantities.

§ 192.123 *Extension of lease eliminated from cooperative or unit plan or communitization or drilling agreement and of lease in effect at termination of such plan or agreement.* Any lease or portion thereof eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the act, and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease, or for two years after its elimination from the plan or agreement or the termination thereof, whichever is the longer, and so long thereafter as oil or gas is produced in paying quantities.

ASSIGNMENTS OR TRANSFERS

§ 192.140 *Assignments or transfers of leases or interests therein.* Leases may be assigned or subleased as to all or part

[4] For extension of lease (a) because of suspension of operations and production, see § 191.26 of this chapter; (b) by payment of compensatory royalty, see § 192.8; (c) committed to communitization or drilling agreement, see § 192.22; (d) used for subsurface storage, see § 192.25; (e) segregated by assignment, see § 192.144.

[5] Filed with the Federal Register Division as part of the original document.

of the leased acreage and as to either a divided or undivided interest therein to any person or persons qualified to hold a lease. Subject to final approval by the Bureau of Land Management, assignments or subleases shall take effect as of the first day of the lease month following the date of filing in the proper land office of all the papers required by §§ 192.141 and 192.142. No assignment will be approved if the assignee is not qualified to take and hold a lease or if his bond is insufficient. A minor, except a minor heir or devisee of a lessee, is not qualified to hold a lease and an assignment to a minor will not be approved. An assignment of a separate zone or deposit or of a part of a legal subdivision will not be approved unless the necessity therefor is established by clear and convincing evidence.

§ 192.141 *Requirements for filing of transfers.* (a) (1) Except as to assignments of record title, all instruments of transfer of a lease or of an interest therein, including assignments of working or royalty interests, and operating agreements, and subleases, must be filed for approval within 90 days from the date of final execution and must contain all of the terms and conditions agreed upon by the parties thereto, together with a statement over the transferee's own signature with respect to citizenship and interests held, similar to that required of an offeror under § 192.42 (e) (3), (4) and (f).

(2) To obtain approval of a transfer affecting the record title of an oil and gas lease, a request for such approval must be made, within 90 days from the date of the execution of the assignment by the parties. Form 4–1175, "Assignment affecting Record Title to Oil and Gas Lease", or unofficial copies of that form in current use may be used for such transfers and requests for approval: *Provided,* That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes, except that the copies shall include the following statement above the signature of the assignee: "This form is submitted in lieu of official Form 4–1175 and contains all of the provisions thereof as of the date of filing of this assignment." In addition, the name and address of the printer or other party issuing unofficial reproductions of the official form shall be printed thereon. This form may be used for any assignment which affects a transfer of the record title to all or part of an oil and gas lease, but it is not to be used for any other type of transfer. Form 4–1175, or a valid reproduction of the official form, will also constitute approval of the assignment when signed by the manager of the land office.

(3) An application for approval of any instrument of transfer of a lease or interest therein or a filing of any such instrument under § 192.145 must be accompanied by a fee of $10, and an application not accompanied by payment of such a fee will not be accepted for filing by the manager. Such fee will not be returned even though the application later be withdrawn or rejected in whole or in part.

(b) Where an attorney in fact, in behalf of the holder of a lease, operating agreement or of a royalty interest in a producing lease, signs an assignment of the agreement, lease, or interest, or signs the application for approval, there must be furnished evidence of the authority of the attorney to execute the assignment or application, and the statement required by § 192.42 (e) (3).

(c) If a bond is necessary, it must be furnished. Where an assignment does not create separate leases the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. Any assignment which does not convey the assignor's record title in all of the lands in the lease must also be accompanied by consent of his surety to remain bound under the bond of record for the lease interest retained by said assignor, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a nation-wide bond on either form, 4–1167 or 4–1168, applicable to the State and the act under which the lease issued, no additional showing is necessary by such party as to the bond requirement. If any overriding royalty or payments out of production are created which are not shown in the instrument or agreement, a statement must be submitted describing them. If payments out of production are reserved, a statement should be submitted stating the details as to the amount, method of payment, and other pertinent terms. Assignments of record title interests must be filed in triplicate. A single copy of any additional information specified in Instructions, Form 4–1175,[5] relating to citizenship and qualifications of corporations, will be sufficient. A single executed copy of all other instruments of transfer, or of an operating agreement is sufficient.

(d) In order for the heirs or devisees of a deceased holder of a lease, an operating agreement, or a royalty interest in a producing lease, to be recognized by the Department as the holder of the lease, agreement, or interest, there must be furnished the appropriate showing required under § 192.42 (l).

(e) The assignor or sublessor and his surety will continue to be responsible for the performance of any obligation under the lease until the assignment or sublease is approved. If the assignment or transfer is not approved, their obligations to the United States shall continue as though no such assignment or transfer had been filed for approval. After approval the assignee or sublessee and his surety will be responsible for the performance of all lease obligations notwithstanding any terms in the assignment or sublease to the contrary.

(f) Unless the lease account is in good standing as to the area covered by the assignment when the assignment and bond are filed, or is placed in good standing before the assignment is reached for action the lease will be cancelled as provided in § 192.161.

§ 192.142 *Separate assignments required for transfer of record titles to leases.* A separate instrument of assignment must be filed for each oil and gas lease when transfers involve record titles. When transfers to the same person, association, or corporation, involving more than one oil and gas lease are filed at the same time for approval, one request for approval and one showing as to the qualifications of the assignee will be sufficient.

§ 192.143 *Effect of assignment of particular tract.* When an assignment is made of all or part of the record title to a portion of the acreage in a lease, the assigned acreage becomes segregated into a separate and distinct lease. The assignee becomes a lessee of the Government as to the segregated tract and is bound by the terms of the lease as though he had obtained the lease through an application filed in his own name and the assignment after its approval will be the basis of a new record.

§ 192.144 *Extension of leases segregated by assignment.* (a) Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

[5] Filed with the Federal Register Division as part of the original document.

(b) Undeveloped parts of leases assigned out of leases which are in their extended term under any provision of the act shall continue in effect for two years, and so long thereafter as oil or gas is produced in paying quantities.

§ 192.145 *Royalty interests in oil and gas leases and assignments thereof.* Royalty interests in oil and gas leases constitute holdings or control of lands and deposits within the meaning of section 27 of the act. In order that the holdings of the assignee may be verified, all assignments of royalty interests must be filed for record purposes but no formal approval will be given. Any such assignment will be deemed to be valid provided it is accompanied by a statement over the assignee's signature that he is a citizen of the United States and that his interests in oil and gas leases do not exceed the acreage limitation as provided in § 192.3 and by the statement as to over-riding royalties required by § 192.83. If any portion of this statement is found to be false the assignment shall be invalid.

TERMINATION OF LEASES

§ 192.160 *Relinquishments of leases or portions thereof.* A lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in triplicate, in the proper land office. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the land to be relinquished in condition for suspension or abandonment in accordance with the regulations and the terms of the lease. A statement must be furnished that all moneys due and payable to workmen employed on the leased premises have been paid.

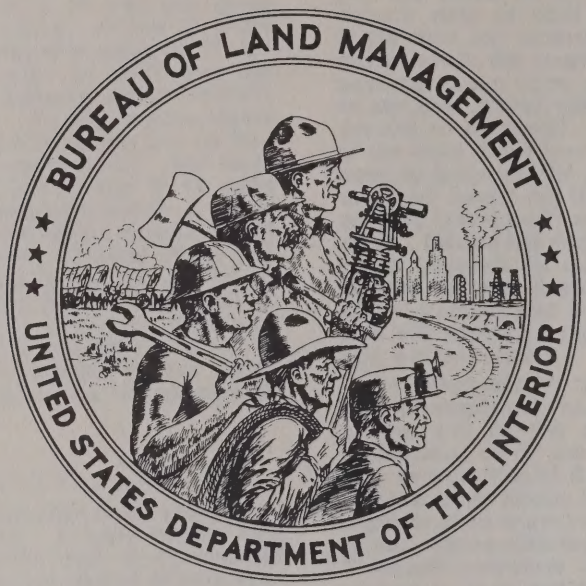
§ 192.161 *Cancellation and termination of lease.* (a) Any lease issued after July 29, 1954, or any lease which is extended after that date pursuant to § 192.120, on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on the tract book, or, for acquired lands, on the official records relating thereto, of the appropriate land office. Until such notation is made, the lands included in such lease are not subject to, nor available for, leasing. Offers to lease filed prior to such notation will confer no rights in the offeror and will be rejected.

(b) Whenever the lessee fails otherwise to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, such lease may be cancelled by the Secretary of the Interior if not known to contain valuable deposits of oil or gas after notice to lessee in accordance with section 31 of the act, if default continues for the period prescribed in that section after service of notice thereof. Any lessee of a lease which issued prior to July 29, 1954, may, at any time prior to the anniversary date of such lease and the accrual of rental, elect to subject his lease to the automatic termination provisions of this section by notifying, in writing, the manager of the appropriate land office to that effect.

(c) Leases known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

This Circular replaces Circulars 1927, 1942,1945, 1977, 1983, 1990

GPO 942146


BUREAU OF LAND MANAGEMENT
UNITED STATES DEPARTMENT OF THE INTERIOR

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter L—Mineral Lands

[Circular 2003]

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

LEASING OF MINERAL DEPOSITS OTHER THAN OIL, GAS, OIL SHALE, COAL, PHOSPHATE, POTASSIUM, SODIUM, AND SULPHUR IN CERTAIN ACQUIRED LANDS

Sections 200.31 to 200.50 are revised and renumbered, and a new § 200.46 is added to this part, to read as follows:

Sec.

200.31 Authority.
200.32 Scope.
200.33 Outstanding prospecting permits and leases.
200.34 Filing and contents of application; filing fee; acreage limitation; qualifications; priority rights.
200.35 Terms and conditions of prospecting permits; rental; bonds.
200.36 Extension of permit.
200.37 Reward for discovery; preference right lease; bond.
200.38 Suspension of operations and production.
200.39 Mineral deposits subject to lease through competitive bidding; leasing units.
200.40 Application for lease by competitive bidding.
200.41 Notice of lease offer.
200.42 Bidding requirements; deposits.
200.43 Action by successful bidder.
200.44 Payments and reports.
200.45 Bonds.
200.46 Approval of operating or development contract without regard to acreage limitations.
200.47 Relinquishment of prospecting permit or lease.
200.48 Cancellation or termination of prospecting permit or lease.
200.49 Transfers, including subleases.
200.50 Overriding royalties.
200.51 Fractional or future interest leases and permits.

AUTHORITY: §§ 200.31 to 200.51 issued under R. S. 161, sec. 3, 63 Stat. 683; 5 U. S. C. 22, 30 U. S. C. 192c.

§ 200.31 *Authority.* (a) Section 402, Reorganization Plan No. 3 of 1946 (60 Stat. 1099) transferred the functions of the Secretary of Agriculture and the Department of Agriculture relative to the leasing or other disposal of minerals in certain acquired lands to the Secretary of the Interior.

(b) Section 3 of the act of September 1, 1949 (63 Stat. 683) authorized the issuance of mineral leases or permits for the exploration, development and utilization of minerals, other than those covered by the Mineral Leasing Act for Acquired Lands, in certain lands added to the Shasta National Forest by the act of March 19, 1948 (62 Stat. 83)

(c) Section 3 of the act of June 23, 1952 (66 Stat. 285), authorized the Secretary of the Interior to administer, in the manner prescribed by section 402 of Reorganization Plan No. 3 of 1946, mineral deposits other than those subject to the provisions of the Mineral Leasing Act for Acquired Lands, in that part of the Juan Jose Lobato Grant Numbered 164, which lies northerly of the Chama River (North Lobato tract) and in part of the Anton Chica Grant Numbered 29 (El Pueblo tract) as more particularly described in section 1 of the act of June 28, 1952.

§ 200.32 *Scope.* (a) Sections 200.31 through 200.51 apply to the leasing or other disposal of minerals other than oil, gas, oil shale, coal, phosphate, potassium, sodium and sulphur.

(1) In acquired lands under the act of March 4, 1917 (39 Stat. 1134, 1150; 16 U. S. C. 520), Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 195, 200, 202, 205; 40 U. S. C. 401, 403 (a) and 408), the 1935 Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115, 118), section 55 of Title I of the act of August 24, 1935 (49 Stat. 750, 781), the act of July 22, 1937 (50 Stat. 522, 525, 530), as amended July 28, 1942 (56 Stat. 725; 7 U. S. C. 1011 (c) and 1018).

(2) In acquired lands, except Indian lands and lands in national parks and monuments, under the jurisdiction of the bureaus of the Department of the Interior where authorized by law.

(3) In those lands added to the Shasta National Forest by the act of March 19, 1948 (62 Stat. 83), which were acquired with funds of the United States, or lands received in exchange therefor.

(4) In those portions of the Juan Jose Lobato Grant (North Lobato tract) and of the Anton Chica Grant (El Pueblo tract) in New Mexico, mentioned in paragraph (c) of this section.

(b) Lands under jurisdiction of the Department of Agriculture. The Reorganization Plan and the Acts provide that mineral development may be permitted only with the consent of the Secretary of Agriculture and subject to such conditions as he may prescribe to protect the purposes for which the lands were acquired or are being administered. An application will be rejected if the Secretary of Agriculture does not give his consent. Any lease permit, or other instrument granting the right to mine or remove the minerals will contain such stipulations as may be specified by that official in order to protect such purposes. All matters relating to the surface of the land and its protection, including responsibility for securing compliance with all applicable regulations and procedures of the Department of Agriculture, the terms of the lease relating to the surface and surface resources, and the stipulations specified for the protection of the land, are functions of the Department of Agriculture. Lessees and permittees will comply with the applicable regulations of the Secretary of Agriculture and will consult with the authorized representative of the Secretary of Agriculture as to matters relating to the surface.

§ 200.33 *Outstanding prospecting permits and leases.* Prospecting permits and leases heretofore issued by the Department of Agriculture will continue to be administered by the Department of the Interior in accordance with the regulations under which they were issued.

§ 200.34 *Filing and contests of applications; filing fees; acreage limitation; qualifications; priority rights.* (a) While there is no required form for an application for a prospecting permit or lease, Form 4–1307 may be used for that purpose. If not, the application should:

(1) Specify the dominant mineral or minerals for which the lease or permit is sought;

(2) Name, if practicable, the branch of the Government agency having jurisdiction over the land and the administrative unit or project of which the land is a part;

(3) Contain a statement of applicant's citizenship; if a corporation, the State of incorporation and that it is authorized to hold a prospecting permit or lease, and a statement that applicant's interests, direct or indirect, in leases, prospecting permits or applications for minerals other than coal, phosphate, sodium, potassium, oil, oil shale, or gas in acquired lands in the same State, do not exceed the allowable acreage prescribed in paragraph (c) of this section.

(4) Contain a complete and accurate survey description of the lands for which a prospecting permit or lease is desired; in the States under the public land rectangular system, if surveyed, by legal subdivision, section, township and range; if unsurveyed, by a similar description based upon the premise of its location

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when surveyed and by courses and distances connected to a corner of the public land rectangular system. In those States not covered by the public land rectangular system, by the description in the deed of conveyance, of the tract, to the United States or if a portion of such a tract, by courses and distances connected with an identifiable and established corner of an existing survey recognized by the laws of the State;

(5) Include an accurate map or plat of the lands prepared from the survey thereof or other reliable map source, unless the lands are surveyed under the public land system of surveys.

(b) An application for a prospecting permit or lease may be filed by any citizen or association of citizens of the United States, or corporations organized and existing under the laws of the United States or any State or Territory thereof.

(1) The application shall be filed in triplicate in the proper land office, or for lands or deposits in States in which there are no land offices, with the Director, Bureau of Land Management, Washington 25, D. C., except that applications for lands or deposits in the following States should be filed at the land offices named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma or Texas, at Santa Fe, New Mexico. The application must be accompanied by a filing fee of $10 which is not returnable.

(2) An application for a prospecting permit must be accompanied by full payment of the first year's rental of 25 cents per acre or fraction thereof, but no less than $20.

(c) No applicant may hold more than 20,480 acres under prospecting permit and lease of which not more than 10,240 acres may be held under lease, provided, however, that the Secretary may authorize a lessee to hold under lease an additional 10,240 acres of land if he finds, upon a satisfactory showing submitted by the lessee that such additional acreage is necessary to promote the orderly development of mineral resources and does not result in undue control of the mineral to be mined, removed and marketed, but in no event shall a lessee hold in excess of 10,240 acres of leased land for the mining of any dominant single mineral, nor shall any person at any one time hold more than 20,480 acres under permit and lease in any one State.

(d) A prospecting permit may not include more than 2,560 acres, and will be issued to the first qualified applicant.[1] The acreage covered by such a permit must lie entirely within the area of a 6-mile square. An application for a prospecting permit which covers lands that are not located entirely within a 6-mile square will be rejected in its entirety.

[1] A larger area may be granted under the "rule of approximation" in those States covered by the public land rectangular survey system. That rule applies to applications for prospecting permits only where elimination of the smallest legal subdivision involved would result in a deficiency of area under 2,560 acres greater than the excess over 2,560 acres resulting from inclusion of such subdivision.

§ 200.35 *Terms and conditions of prospecting permits; rental; bonds.* (a) Prospecting permits are issued on Form 4–1099 for a period of 2 years and grant the permittee the exclusive right to prospect on and explore the described lands to determine the existence of, or workability of, the mineral deposits therein. Only such material may be removed from the land as is necessary to demonstrate the existence of commercial quantities thereof.

(b) A prospecting permit will require payment in advance by permittee of an annual rental of not less than 25 cents per acre or fraction of an acre, but no less than $20 per year. The permittee may also be required, as a condition precedent to the issuance of a permit, to furnish a permit bond.

(c) Prospecting may be carried on with the consent of the appropriate official of the Department, bureau or agency having jurisdiction over the land where no structures are to be erected, and no substantial excavations or disturbances of the surface will be made. Such prospecting shall not be deemed to vest in the prospector an exclusive right of exploration or a preference right to a lease under this part.

§ 200.36 *Extension of permit.* (a) A prospecting permit may be extended for one additional term of 2 years, in the discretion of the signing officer, upon written application made by the permittee and filed in triplicate in the proper land office within 90 days prior to the expiration date of the permit. Such application must be accompanied by a filing fee of $10, which is not returnable. In support of an application for extension of a prospecting permit, the permittee must show that he has diligently performed prospecting activities on the land during the period for which the permit was issued. This requirement may be dispensed with, in the discretion of the authorized officer, upon a satisfactory showing that the permittee's failure to perform diligent prospecting activities was due to conditions beyond permittee's control.

(b) Upon failure of the permittee to file an application for extension within the specified period, the permit will expire 30 days after the end of its primary term without notice to the permittee and the lands will thereupon become subject to new application for prospecting permits.

§ 200.37 *Reward for discovery; preference right lease; bond.* (a) Upon discovery of any valuable deposit of minerals the permittee shall be entitled to a preference right lease for the minerals in any or all of the lands in the permit except as provided for in § 200.32 (a).

(b) Should the issuance of the preference right lease, for the acreage applied for, increase the permittee's leased acreage beyond 10,240 acres, such preference right lease will not issue unless the permittee, within the time allowed by the signing officer, relinquishes sufficient of his leased lands to reduce the area of his leaseholds, including the area to be included in the preference right lease, to 10,240 acres except as provided for in § 200.34 (c).

(c) An application for a preference right lease must be filed in the proper land office not more than 30 days after the termination date of the primary or extended term of the permit, and must describe the lands for which the lease is desired; must contain a statement of permittee's interests, direct or indirect, in acquired lands mineral leases except leases covering the leasable minerals mentioned in § 200.32 (a); must disclose any change in the information contained in the application for the permit, specify fully the extent the mode of occurrence of the mineral deposit disclosed by the prospecting, and show that a valuable deposit of minerals was discovered before the expiration of the permit.

(d) The application must be accompanied by a payment of $1 for each acre or fraction thereof included in the application, but not less than $20. In no event shall the first year's rental on any lease be less than $20. The lease will be issued on Form 4–1100 and will be dated the first day of the month following the date of the decision notifying the applicant that he is entitled to a preference right lease, except that upon the applicant's request, the lease will be dated the first day of the month following the date the application is filed. If the permit expires and the application for lease is finally rejected, royalty for the deposits mined will be charged at the permit rate (12½ percent) and such mining will not constitute a trespass.

(e) The permittee shall be liable for and pay to the United States a royalty of 12½ percent of the gross value of the minerals mined at the point of shipment to market during the period prior to the effective date of the preference right lease, but no mining operations shall be carried on prior to the effective date of such lease except with the written consent of the agency having jurisdiction over the surface of the land and subject to such conditions as the authorized representatives of the agency shall prescribe.

(f) The terms and conditions of the lease, including the royalty rates, will be established on an individual case basis. If minerals other than that specified in the issued lease should be discovered and

mined by the lessee an applicable royalty rate will be established by the lessor for such mineral. The lessee will be required to post a lease bond on Form 4–1301 or Form 4–1302 before the lease will be executed by the Government. The lease will be issued for a period of five or ten years, upon the advice of the agency having jurisdiction over the surface and the United States Geological Survey, with a right in the lessee to renew the same for successive periods of like duration under such reasonable terms and conditions as the Secretary of the Interior may prescribe, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover. An application for renewal of the lease must be filed in manner similar to that prescribed for extension of a permit in § 200.36 (a) and the provisions of § 200.36 (b) are applicable to leases.

§ 200.38 *Suspension of operations and production.* (a) Applications by lessees for relief from the producing requirements or from all operating and producing requirements of mineral leases shall be filed in triplicate, in the office of the Regional Mining Supervisor of the Geological Survey and a copy thereof filed in the proper land office. Complete information must be furnished showing the necessity for such relief.

(b) The lease will be extended for the period of suspension of operations and production.

(c) A suspension shall take effect as of the time specified in the direction or assent of the Secretary or his authorized representative. Rental and minimum royalty payments will be suspended during any period of suspension of operations and production, beginning with the first day of the lease month on which the suspension of operations and production become effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension or rental and minimum royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

§ 200.39 *Mineral deposits subject to lease through competitive bidding; leasing units.* (a) Except for preference right leases, as set out in the preceding section, leases for lands containing valuable mineral deposits will be issued only to the qualified person who offers the highest bonus by competitive bidding, either by oral auction or sealed bids or both, as provided in the published notice inviting bids for the issuance of a lease covering such deposits.

(b) Any qualified person may file an application for the competitive offering of such deposits. Leasing units may not exceed, in reasonably compact form, 2,560 acres of land described in the manner required by § 200.34 (4). The authorized officer may prescribe a lesser area for any mineral deposit if the Geological Survey reports that such lesser area is adequate for a logical mining unit.

§ 200.40 *Application for lease by competitive bidding.* (a) An application for a mineral lease through competitive bidding must be filed in triplicate in the appropriate land office. Form 4–1307 should be used for such an application, though its use is not mandatory. If this form is not used, the application should contain the information specified in § 200.34 and should be accompanied by evidence that the land applied for is valuable for the mineral deposits named therein, together with a statement as to the character, extent and mode of occurence thereof.

§ 200.41 *Notice of lease offer.* Notice of the offer of the mineral deposits for lease will be published once a week for 4 consecutive weeks, or for such other periods as the Bureau of Land Management may deem appropriate, in a newspaper of general circulation in the county in which the mineral deposits are situated. A copy of the notice will be posted in the proper Land Office during the period of publication. The notice will set the day and hour of sale, state whether the lease will be offered by oral auction bidding or by sealed bids, or both, and state that the successful bidder will be required to pay the cost of publishing the notice if only one parcel of land is involved. Where more than one parcel is offered, the successful bidder will be required to pay his proportionate share of such cost, which will be that proportion of the cost that the number of parcels awarded to the successful bidder bears to the number of parcels for which high bidders are declared. The notice will specify the place where the oral auction sale is to be held and where sealed bids are to be submitted, and other information pertinent to the offering. The notice will contain a warning to all bidders against violation of 18 U. S. C. 1860, which prohibits unlawful combination or intimidation of bidders. The notice shall also state that the Government reserves the right to reject any and all bids.

§ 200.42 *Bidding requirements; deposits.* (a) At a sale by oral auction the high bidder must deposit with the officer conducting the sale, on the day of the sale, one-fifth of the amount of his bid and at a sale by sealed bids each bidder must include with his bid one-fifth of the amount of the bid.

(b) If the sale is by oral auction and sealed bids, the oral auction sale will proceed first at the time and place specified therefor in the notice of offering, and the officer conducting the sale will, upon the termination of such oral auction bids, declare the high bidder. Thereupon, the officer conducting the sale will publicly, open and audibly, read all of the sealed bids which were received timely, and the lease will be awarded to the highest bidder, whether an oral auction bidder or a sealed bidder. The lease will be awarded to the high bidder, subject to the submission of proof of his qualifications.

(c) All deposits with bids including rental payments must be made by certified check, cashier's check, bank draft, money order, or cash. Deposits made on rejected or unsuccessful bids will be returned to the bidders.

§ 200.43 *Action by successful bidder.* Three copies of the lease to be awarded will be sent to the successful bidder who will be allowed 30 days from receipt in which to execute such lease, pay the balance of the bonus bid and the first year's rental in full, and file a surety bond in such amount as may be required, but not less than $500 on either of the bond forms specified in § 200.45, and furnish proof of citizenship and holdings as set forth in § 200.34 (a) (3). If the successful bidder, after being awarded the lease, fails or refuses to execute the same or to otherwise comply with the applicable regulations, his deposit will be forfeited.

§ 200.44 *Payments and reports.* Rentals under all leases and permits shall be paid to the Manager of the proper land office, as set forth in § 200.34 (b) (1), except that rentals and royalties on productive mining leases shall be paid to the Regional Mining Supervisor of the Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

§ 200.45 *Bonds.* Corporate surety prospecting permit or lease bonds may be furnished on Form 4–1302. In lieu of a corporate surety bond, a personal prospecting permit or lease bond secured by

negotiable United States bonds of a par value equal to the amount of the required surety bond, together with a power of attorney may be executed on Form 4–1301.

§ 200.46 *Approval of operating or development contracts without regard to acreage limitations.* (a) The Secretary of the Interior or his authorized representative may, by and with the concurrence of the Geological Survey, and on such conditions as may be prescribed, approve operating or development contracts, or processing or milling arrangements, made by one or more lessees with one or more persons, associations, or corporations, to justify operations on a large scale for the discovery, development, production or transportation of ores, whenever, in his discretion, and regardless of acreage limitations provided for in this part, the conservation of natural products or the public convenience or necessity may require it, or the interests of the United States may be best subserved thereby.

(b) Three executed copies of an operating or development contract submitted for approval under this provision must be filed in the proper land office, and a duplicate original with the Regional Mining Supervisor of the Geological Survey. The contract must be accompanied by a statement showing all of the interests held by the contractor designated in the contract in the area, and also the agreed or the proposed plan of operation or development of the leased lands. All of the contracts held by the same contractor, in the area, should be submitted at the same time and full disclosure of the project made.

§ 200.47 *Relinquishment of prospecting permit or lease.* The permittee or lessee may surrender the entire prospecting permit or lease or any legal subdivision thereof. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper land office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the permittee or lessee and his surety, to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all of the terms of the prospecting permit or lease.

§ 200.48 *Cancellation or termination of prospecting permit or lease.* (a) Except as provided for in paragraph (b) of this section, if a permittee or lessee fails to comply with the general regulations in force at the date of the prospecting permit or lease, or, as to a lease at the effective date of any readjustment of the terms and conditions thereof, or defaults with respect to any of the terms, covenants, or stipulations of the permit or lease, and such failure or default continues for 30 days after service of written notice thereof by the Government then the permit or lease may be cancelled. A waiver of any particular cause for cancellation shall not prevent the cancellation of the permit or lease for any other cause, or for the same cause occurring at any other time. Until such cancellation is noted on the appropriate records of the Land Office, the lands will not be open to further application for permit or lease.

(b) Any prospecting permit or lease shall terminate automatically if the permittee or lessee fails to pay the rental on or before the anniversary date of the permit or lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely.

(c) The termination of the permit or lease for failure to pay the rental must be noted on the official records of the proper land office. Until such notation is made, the lands included in such prospecting permit or lease are not subject to the issuance of any other prospecting permit or lease. Applications for such permits filed prior to such notation will be rejected.

§ 200.49 *Transfers, including subleases.* Prospecting permits and leases may be transferred in whole or in part. The approval of a transfer of part of the lands in a prospecting permit or lease will create a new prospecting permit or lease for the transferred portion. A discovery either on the retained or the assigned portion of a prospecting permit will not inure to the benefit of the other. Approval of a transfer will not extend the life of the prospecting permit or the readjustment periods of the lease. Transfers, whether by direct assignments, operating agreements, subleases, working or royalty interests, or otherwise, must be filed in triplicate in the proper land office within 90 days after execution, and must be accompanied by a filing fee of $10, which is not returnable. Evidence of the qualifications of the assignee or transferee to hold the permit or lease, as required by § 200.34 (a) (3) and (b) must be submitted together with an application for approval of the transfer. Before a transfer of a prospecting permit or lease will be approved, the transferee must submit a surety bond if the original permit or lease required the maintenance of a bond. A transfer will take effect the first day of the month following its approval, or if the transferee requests, the first day of the month of the approval.

§ 200.50 *Overriding royalties.* (a) An overriding royalty interest may be created by assignment or otherwise: *Provided, however,* That if the total of the overriding royalty interest at any time exceeds one percent of the gross value of the output at the point of shipment to market, it shall be subject to reduction or suspension by the Secretary of the Interior to a total of not less than one percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so in order (1) to prevent premature abandonment, or (2) to make possible the economic mining of marginal or low-grade deposits. Where there is more than one overriding royalty interest, any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof, or in the absence of such agreement, in the inverse order of the dates of creation of such interests.

(b) Any assignment, sublease, or other transfer or agreement which creates an overriding royalty interest, will not be approved unless the owner of that interest files his agreement in writing that such interest is subject to suspension or reduction as provided in paragraph (a) of this section. No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the Secretary of the Interior.

§ 200.51 *Fractional or future interest leases and permits.* (a) A prospecting permit for a fractional interest in mineral deposits or a lease for a fractional or future interest in mineral deposits acquired by the Government may be issued in the discretion of the authorized officer, by and with the consent of the appropriate Government bureau or agency having jurisdiction over the land in which such deposits are located. The terms and conditions of such permits and leases will be established on an individual case basis. No specific form of application for such permits or leases is required, but the application should contain the information required by § 200.34, as well as the information required by paragraphs (b) and (c) of this section where applicable. The application must be filed in triplicate in the proper land office accompanied by a filing fee of $10 which is not returnable.

(b) *Present fractional interest leases or permits.* An application for a present fractional interest prospecting per-

mit or lease must show whether the applicant owns all of the fractional mineral interest not owned by the United States or all of operating rights thereto. An applicant for such a permit or lease must have a present interest in the minerals. If applicant does not own all of such mineral interests or all of the operating rights thereto, the extent of the applicant's rights thereto must be shown as well as the names of the other owners of such rights. Since the issuance of a permit or lease to one who, upon such issuance, would have less than a majority interest in the minerals or the operating rights thereto is not regarded as being in the Government's interest, an application for a permit or lease, the granting of which would lead to such result, may be rejected.

(c) *Future or fractional future interest leases.* An applicant for a prospecting permit for a fractional mineral interest or for a future or fractional interest lease must submit, with his application, title evidence of his present interest in the mineral deposits. This may be accomplished by a certified abstract of title or a certificate of title. If applicant is the owner of the operating rights to the minerals and acquired such rights under a lease from or contract with the owner of such minerals, the application should also be accompanied by three copies of such lease or contract. A whole or fractional future interest lease or a prospecting permit for a fractional interest will be issued only to an applicant who owns all or substantially all of the present operating rights to the minerals as fee owner, lessee, or operator holding such rights. Future interest leases will become effective on the date of vesting of title to the minerals in the United States as stated in the lease.

(d) *Rejection and termination of applications.* An application for a future interest lease filed less than one year prior to the date of the vesting in the United States of the present interest in the minerals will be rejected. Upon the vesting in the United States of the present possessory interest in the minerals, all applications for future interest leases outstanding at the time will automatically lapse and thereafter only offers for a present interest lease will be considered.

HATFIELD CHILSON,
Acting Secretary of the Interior.

MAY 23, 1958.

[F. R. Doc. 58-4058; Filed, May 29, 1958; 8:45 a. m.]

This Circular replaces Circulars 1900, 1903, 1919 and 1938

GPO 944190

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2004]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON THE OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

Paragraph (a) of § 244.8 and paragraphs (d) and (e) of § 244.21 are revised to read as follows:

§ 244.8 *Commencement of construction work in advance of approval of right-of-way; trespass.* (a) Permission to commence construction work over and through lands under the jurisdiction of the Department of the Interior or of its agencies and to use and occupy such lands in advance of the approval of a right-of-way may be granted by the manager upon a satisfactory showing of the necessity for such action and upon a determination, after the request for permission has been cleared by all interested agencies of the Department, that such action is compatible with the public interest. Requests for such advance authority need not meet the formal requirements of §§ 244.3 to 244.5 and may be filed with the agency having supervision of the land involved, in which case a duplicate request must be filed in the office specified in § 244.3.

§ 244.21 *Payment required; exceptions; default; revision of charges.* * * *

(d) (1) There shall be remitted to the Bureau of Land Management with the application, or with the request for advance permission (see § 244.8), the amount provided as the rental for a calendar year or fraction thereof.

(2) Where the application is for a reservoir, dam, well, or plant sites, etc., the sum of five dollars ($5), the minimum charge specified for such cases, shall be remitted to the Bureau of Land Management with the application or the request for advance permission.

(e) The holder of the right-of-way or permit for advance construction, use, and occupancy thereafter shall pay, on or before the first day of each calendar year, the rental charges for that calendar year in accordance with paragraphs (a) and (b) of this section. If the rental charge is not paid when due, and such default shall continue for thirty days after the first day of January, action may be taken to cancel the right-of-way or permit. After default has occurred, no structures, buildings, or other equipment may be removed from the right-of-way except upon written permission first obtained from the authorized officer.

FRED A. SEATON,
Secretary of the Interior.

JUNE 20, 1958.

(R. S. 161, 453, 2478; 5 U. S. C. 22, 43 U. S. C. 2, 1201)

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INTERIOR
Chapter 1--Bureau of Land Management, Department of the Interior

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Circular 2005

Part 196—Phosphate Leases and Use Permits

PHOSPHATE LEASES

Sec.

196.1 Statutory authority.
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196.17 Use of silica, limestone or other rock.
196.18 Use permits for additional lands.
196.19 Claims initiated prior to February 25, 1920.
196.20 Limitation on overriding royalties.

AUTHORITY: §§ 196.1 to 196.20 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189. Interpret or apply secs. 9–12, 41 Stat. 440, 441, as amended; 30 U. S. C. 211–214.

SOURCE: §§ 196.1 to 196.20 appear at 19 F. R. 9029, Dec. 23, 1954.

§ 196.1 *Statutory authority.* Sections 9 to 12, inclusive, of the act approved February 25, 1920 (41 Stat. 440; 441; 30 U. S. C. 211–214), as amended, authorizes the Secretary of the Interior to lease any phosphate deposits of the United States and lands belonging to the United States containing deposits of phosphates and associated or related minerals, hereinafter called "leased deposits." Invitations to bid for such leases will be made in accordance with the procedure hereinafter set forth. Leases will be issued on Form 4–1110 for periods of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each 20 year period such reasonable readjustment may be made of the terms and conditions thereof as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods.

§ 196.2 *Size of leasehold and limitation of acreage holdings.* (a) Except where the rule of approximation applies, a lease may not include over 2,560 acres in reasonably compact form. Each lease shall contain the description of the land involved by legal subdivisions of the public land surveys. No person, association, or corporation, may hold at any one time, either directly or indirectly, leases that exceed in the aggregate 10,240 acres in the United States.

(b) A lessee, upon a showing that the leased deposits extend into adjoining Federal lands may, upon application to be filed in the Land Office, be granted, subject to the acreage limitation under paragraph (a) of this section, a lease for additional acreage, if the Manager, after consultation with the Mining Supervisor, shall determine that the increased acreage will result in conservation of natural resources and will provide for the most economical and efficient recovery of a minable deposit without waste. In applying this paragraph, fringe acreage in an area not of interest to more than one operator, and lacking sufficient reserves of phosphate deposits to warrant independent development, may be leased noncompetitively without publication either by separate lease or by adding to an existing leasehold (within the aggregate limitation of 2,560 acres), subject to a bonus of not less than $1.00 an acre, a minimum royalty, and such other terms and conditions as may be determined at the time the lease offer is made. If, however, the fringe acreage has sufficient reserves to warrant independent development, or, if, following appropriate inquiry of operators in the area and consultation with the Mining Supervisor, the Manager determines that there is competitive interest therein, the lands will be offered competitively under § 196.11.

§ 196.3 *Qualifications of applicants.* Leases may be issued to (a) citizens of the United States, (b) associations of citizens, and (c) corporations organized under the laws of the United States or of any State or Territory thereof.

§ 196.4 *Lease bond.* A compliance bond, in no event less than $5,000, with approved corporate surety (Form 4–1113), or the lessee's personal bond in similar amount (Form 4–1114), will be required prior to the issuance of a lease. Personal bonds must be accompanied by negotiable Federal securities in the amount of the bond. The right is reserved at any time before or after issuance of the lease to require an increase of the amount of the bond, whether a corporate or personal bond, in any case where the Bureau of Land Management deems it proper to do so.

§ 196.5 *Minimum production.* Each lease will contain appropriate conditions fixing a minimum annual production of the leased deposits beginning with the fourth year from date thereof or payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, casualties not attributable to the lessee, or upon a satisfactory showing that market conditions are such that the lessee cannot operate except at a loss. When authorized in the lease the minimum production requirements may be satisfied by production from other properties controlled by the lessee and constituting a necessary reserve so located as to be a part of a successful unit operation.

§ 196.6 *Lessee's petition for change in minimum production.* The lessee may request at any time prior to the end of the thirtieth lease month, that the Secretary reduce the amount of the minimum production specified in the lease upon the basis of the showing submitted by the lessee. The petition must be filed in duplicate with the office from which his lease was delivered. It should give, among other relevant information, (a) his estimate of tonnage of mineral phosphate rock and associated or related minerals in the leased land, (b) all available information as to the grade thereof, (c) his plan of operation for the property and adjacent property to be worked therewith, (d) a general statement of the method or methods which he intends to use in mining and procesing of the phosphate rock and associated

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or related minerals, (e) the estimated rate of its extraction and (f) possible absorption in the markets. Within six months after receipt of this information the authorized officer, after considering what would be a reasonable period within which to mine the leased deposits taking into account, where material, the lessee's mining operations on adjacent phosphate land owned or controlled by him, will determine whether the minimum production requirement in the lease shall be changed to a lesser figure than the amount then provided.

§ 196.7 *Application for lease.*[1] Applications shall be filed in the proper land office in the State or Territory, or for lands in a State in which there is no land office, shall be filed with the Bureau of Land Management, Washington 25, D. C., except the applications for lands in North or South Dakota shall be filed in the land office at Billings, Montana; applications for lands in Nebraska or Kansas, shall be filed in the land office at Cheyenne, Wyoming; and for lands in Oklahoma, in the land office at Santa Fe, New Mexico. A filing fee of $10, which will be retained as a service charge in any event, must accompany each application. A noncompetitive lease application must also be accompanied by the first year's rental of twenty-five cents per acre for each acre of land or part thereof included in the lease application. No specific form is required but an application should cover the following points:

(a) Applicant's name and address.

(b) A statement of his interests, direct or indirect, whether as a member of an association or stockholder in a corporation, or otherwise in other phosphate leases or applications therefor on public lands, identifying the same by land office and serial number together with the total amount of acreage so held in the United States, and a statement that such holdings under said act, together with the lands applied for, do not exceed in the aggregate the maximum allowable area of 10,240 acres in the United States.

(c) Proof of citizenship: If applicant is an individual, a statement as to whether native born or naturalized; if an association (including a partnership), it must submit a certified copy of the articles of association and a statement by its members as to their citizenship and holdings. If the applicant is a corporation, it must submit statements showing (1) the State or Territory in which it is incorporated; (2) that it is authorized to hold leases for phosphate deposits, and the names of the officers authorized to act in such matters in behalf of the corporation; (3) the percentage of the corporate voting stock and of all the stock owned by aliens or those having addresses outside of the United States; and (4) the name, address, citizenship and acreage holdings of any stockholder owning or controlling 20 percent or more of the corporate stock of any class. If more than 10 percent of the stock is owned or controlled by or on behalf of aliens, or persons who have addresses outside of the United States, the corporation must give their names and addresses, the amount and class of stock held by each, and to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(d) Description of the land for which lease is desired, by legal subdivisions or, if unsurveyed, by metes and bounds, connected with a corner of the public survey by course and distance, and, where possible, description of the land by the approximate subdivisions of the future survey.

(e) To the extent such information is known to the applicant, a description of the phosphate and associated or related mineral deposits in the land based upon such actual examination as can be effected without an injury to the land or deposits (such examination shall not be deemed a trespass), giving nature and extent of the deposits; an outline in general terms of the proposed method of mining and processing the same; the proposed investment in mining operations thereon, and processing facilities therefor.

(f) Each applicant must show in sufficient detail that:

(1) The amount of phosphate lands, Federal and non-Federal, held by him, together with the lands described in the application are necessary for his proposed development plan.

(2) He intends to explore, mine and develop the property in good faith.

(3) His proposed operations of the property will be in accordance with good conservation practice and this additional development is needed in order to supply an existing demand which cannot otherwise be reasonably met.

(g) The applications must be signed by the applicant or his attorney-in-fact, and if executed by an attorney-in-fact must be accompanied by the power of attorney and the applicant's own statement as to his citizenship and acreage holdings. Application on behalf of a corporation must be accompanied by proof of the signing officer's authority to execute the instrument and must have the corporate seal affixed thereto.

(h) And in addition, in the case of noncompetitive lease applications, the extent to which further prospecting is necessary before development can reasonably be undertaken and the general exploration program which will be undertaken, the estimated expenditure under such exploration program, and the maximum period of time required for its completion, not to exceed three years.

§ 196.8 *Noncompetitive application; publication; protests.* (a) If, upon an examination of the first application filed to lease the lands noncompetitively, and such additional information as the applicant may be required to submit, in support of it, and upon the report of the Geological Survey as to the need for further exploration and any other technical matters submitted to it, the Secretary determines that the applicant is qualified, and that the lands or deposits constitute an acceptable leasing unit and are subject to phosphate lease and that further exploration is necessary before development could reasonably be undertaken, the applicant, as a condition precedent to the issuance of the lease, will be required to publish, at his own expense, once a week for four consecutive weeks in a designated newspaper of general circulation in the county or counties in which the land is situated, a notice, specified by the Secretary, containing the terms upon which the lease will be issued to the applicant in the absence of a protest deemed valid by the Secretary. The applicant will be required to commence publication within 30 days after service of the decision upon him unless he requests reconsideration of the decision within that time.

(b) The notice shall describe the land, specify the rental and royalty to be paid under the lease, and the minimum production requirement, together with a general statement as to the exploration program required by the Secretary to be undertaken by the applicant after lease issuance to ascertain that development is feasible under the lease. The notice shall also state (1) that the minimum production requirement will not be reduced or waived at the lessee's request except as provided in § 196.5, § 196.6, § 191.25 or § 191.26 of this chapter, and (2) that the lease will be canceled if apart from or in addition to any other grounds that may exist therefor, production, or the construction of production

[1] 18 U. S. C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

facilities, including processing plants, is not commenced by the beginning of the fourth year of the lease. A copy of the notice will be posted in the land office after receipt by the manager.

(c) A valid protest may be based upon (1) a prior equitable claim, including a mining location, or (2) the fact that there is sufficient interest by qualified applicants to justify offer of lease by competitive bidding. A protest based upon the second ground must be accompanied by the payment of the first year's rental of 25¢ per acre for the land, together with a showing that the protestant has the qualifications of an applicant under § 196.7. In addition, there must be set forth in the protest an offer to reimburse the applicant in whole, or ratably with other similar protestants, for the cost of publishing the notice of the application. Decisions on protests will be made within 30 days after the applicant has submitted proper proof of publication. No application will be rejected on the second ground unless proof is filed that, when directed by the authorized officer, payment of the advertising cost has been made or a satisfactory tender is being made and is still being kept open. If the protest is rejected or if the protestant is not the successful bidder when a sale is held, his rental payment will be returned to him.

(d) If the authorized officer decides after the receipt of an application or after proof of advertising has been submitted that the land is not available for leasing or that the applicant is not entitled to a lease or that the land should be offered for competitive bidding, the rental payment will be returned to the applicant and his application for a noncompetitive lease rejected.

§ 196.9 *Issuance of noncompetitive lease.* (a) The applicant should file with the land office, within 30 days after publication has been completed, proof thereof, together with a lease duly executed by him on Form 4–1110 and the bond required by § 196.4 (b). In the absence of protest or of a protest deemed valid and if all else is regular, the lease will be issued and dated as of the first day of the month following its issuance, unless the applicant requests that it be dated as of the first day of the month of issuance. If the land is unsurveyed, the lessee need not deposit the executed lease and bond until the land has been surveyed and the plat of such survey accepted and officially filed. A survey will be made at the expense of the Government. If the applicant has not reported compliance with the requirements of the decision issued under § 196.8, within 120 days of its receipt by him, the annual rental deposited by the applicant will be covered into the Treasury and the applicant advised that the case has been closed.

(b) If the applicant dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed; if probate has been completed, or is not required, to the heirs or devisees; and if there are minor heirs or devisees, to their legal guardian or trustee in his name, provided there is filed in all cases the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person, who as executor or administrator submits forms of lease and bond, has authority to act in that capacity and to sign such forms.

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased applicant and are the only heirs or devisees of the deceased.

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings similar to that required by § 196.7 (b) and (c).

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the applicant and citing the provisions of the law of the deceased's last domicile showing no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 196.7 (b) and (c), except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(3) Where there is a legal guardian or trustee:

(i) A certified copy of the court order authorizing the guardian or trustee to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; statements by the guardian or trustee as to the citizenship and holdings of each of the minors and as to his own citizenship and holdings, including his holdings for the benefit of other minors similar to that required by § 196.7 (b) and (c).

§ 196.10 *Offer of lands or deposits for lease by competitive bidding.* If, in connection with a lease application or otherwise, the authorized officer shall determine, after consultation with the Mining Supervisor of the Geological Survey as to the need for further exploration, royalty rates and production requirements and any other technical matters, that specific lands or deposits which constitute an acceptable leasing unit are subject to phosphate lease without the need of further exploration before development could reasonably be undertaken, the offer of lease will be made on the terms and conditions to be specified in the notice of lease offer to the qualified person who offers the highest bonus by competitive bidding either at public auction or by sealed bids as provided in the notice of lease offer.

§ 196.11 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will state the time and place of sale; whether the sale will be at public auction or by sealed bids; the description of the lands; and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which bids may be submitted, and statements (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; (b) that the terms of minimum production will not be reduced or waived at the lessee's request except as provided in §§ 196.5, 196.6, 191.25, or 191.26 of this chapter, or upon a satisfactory showing that market conditions are such that the lessee cannot operate except at a loss; (c) that the lease will be canceled if production, or the construction of production facilities, including processing plants, is not commenced by the beginning of the fourth year of the lease; and (d) that the Government reserves the right to reject any and all bids. If any bids be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding is unlawful. See 18 U. S. C. 1860.

§ 196.12 *Action by successful bidder.* (a) The successful bidder at a sale by public auction must on the day of sale deposit with the Manager of the proper land office, or other officer conducting the sale and each bidder at a sale by sealed bids must submit with his bid the following: Certified check, cashier's check, bank draft, money order, or cash for one-fifth of the amount bid by him and a statement over the bidder's own signature with respect to citizenship and interests held, similar to that required by § 196.7 (b) and (c).

(b) Upon receipt of the high bid at, and at the close of, an oral auction, or the opening of the sealed bids, the authorized officer, subject to his right to reject any and all bids, will award the

lease to the successful bidder, who will be notified accordingly. If the land is surveyed four copies of the lease will be sent to the successful bidder, who will be required within 30 days from receipt thereof to execute them, pay the balance of the bonus bid, the first year's rental and the cost of publication of the notice of lease offer as specified in § 196.11, and file a bond as required by § 196.4. The lease will be dated as of the first day of the month following its issuance unless the successful bidder requests that it be dated as of the first day of the month of issuance. If the land is unsurveyed, the successful bidder will not be required to comply with the requirements of this paragraph until the land has been surveyed and the plat of such survey accepted and officially filed. Such survey will be at the expense of the Government. If the bidder after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Mineral Leasing Act. If the lease awarded to the successful bidder is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease. If the bidder dies before the lease is issued, there must be furnished satisfactory evidence, such as specified in § 196.9 (b), in order that the Manager of the proper land office may determine to whom the lease may be issued.

§ 196.13 *Assignments of leases; subleases.* (a) Leases may be assigned or subleased in whole or in part to any person or corporation qualified to hold such leases. All instruments of transfer of a lease or of an interest there including assignments of record title, subleases, operating agreements and working or royalty interests, must be filed for approval within 90 days from the date of final execution and must contain evidence of the qualifications of the assignee or transferee, consisting of the same showing required of a lease applicant by § 196.7 (b), (c), (f), and (g). If the instruments fail to describe the true consideration therefor, a statement must be submitted showing the consideration in full. The statement will be treated as confidential and not for public inspection. If a bond is necessary it must be furnished. Assignments of record title interests, including operating agreements, must be filed in triplicate. A single executed copy of all other instruments of transfer is sufficient. An assignment of such leases shall take effect the first day of the month following its final approval by the Bureau of Land Management, or if the assignee requests, the first day of the month of the approval.

(b) The assignor or sublessor and his surety will continue to be responsible for the performance of any obligation under the lease until the effective date of the approval of the assignment or sublease. If the assignment or sublease is not approved, their obligations to the United States shall continue as though no such assignment or sublease had been filed for approval. After approval the assignee or sublessee and his surety will be responsible for the performance of all lease obligations notwithstanding any term in the assignment or sublease to the contrary.

(c) The lease account must be in good standing before approval of an assignment will be given.

(d) An application for approval of any instrument transferring a lease, or interest therein, must be accompanied by a service fee of $10. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

(e) No transfer will be approved if the transferee is not qualified to take and hold a lease or if his bond is insufficient. A minor, except a minor heir or devisee of a lessee, is not qualified to hold a lease and a transfer to a minor will not be approved.

(f) In order for the heirs or devisees of a deceased holder of a lease, an operating agreement, or a royalty interest in a lease, to be recognized by the Secretary as the holder of the lease, agreement or interest, there must be furnished the appropriate showing required under § 196.9 (b).

§ 196.14 *Readjustment of terms and conditions at end of twenty-year periods.* The terms and conditions of a lease may be readjusted at the end of each twenty-year period succeeding the date of the lease. Prior to the expiration of that period, the lessee will be advised of the reasonable readjustment of terms proposed or notified that no readjustment is to be made for the next period. The lessee may file his consent to such proposed readjustment or inform the authorized officer as to the terms which are unsatisfactory. After considering the suggestions of the lessee, the authorized officer shall make his determination as to the reasonable readjustment of terms to be effective for the twenty-year period under consideration.

§ 196.15 *Relinquishment of lease.* Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

§ 196.16 *Cancellation of lease.* If the lessee shall fail to comply with the provisions of the act, or of the general regulations promulgated and in force at the date of the lease, or at the effective date of any readjustment of the terms and conditions thereof under § 196.14, or make default in the performance or observance of any of the terms, covenants, and stipulations of the lease and such default shall continue for 30 days after service of written notice thereof by the lessor, then the lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of the lease as provided in section 31 of the act: *Provided,* That, as to any default occurring under a lease issued noncompetitively not corrected prior to the commencement of production, the authorized officer may cancel such lease without institution of such court proceedings. A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause or forfeiture, or for the same cause occurring at any other time.

§ 196.17 *Use of silica, limestone or other rock.* Any lease to develop and extract phosphates, phosphate rock, and associated or related minerals under the provisions of the act shall provide that the lessee may use so much of any deposit of silica or limestone or other rock situated on any public lands embraced in the lease as may be utilized in the processing or refining of the leased deposits or deposits from other lands upon payments of such royalty as may be determined by the authorized officer, which royalty may be stated in the lease when issued, or, may be provided for by an attachment to the lease to be duly executed by the lessor and the lessee.

§ 196.18 *Use permits for additional lands.* (a) A lessee may be granted a right to use the surface of not exceeding 80 acres of unappropriated and unentered public land not included within the boundaries of a national forest as may be necessary for the proper extraction, treatment, or removal of the leased deposits. The annual charge for the use of such land will be not less than $1.00 per acre or fraction thereof.

(b) Applications for permits for such additional land shall be filed in the office specified in § 196.7 A filing fee of $10, which will be retained as a service charge in any event, must accompany each application. Such applications must set forth the specific reasons why the additional land is necessary to the lessee for the use named, describe the land desired in accordance with § 196.7

(d), and also set forth the reasons why the land is desirable and adapted to the use named, either in point of location, topography, or otherwise, and that it is unoccupied and unappropriated. The application must also contain an agreement to pay the annual charge prescribed in the permit. Use permits will be issued on Form 4–1111 and dated as of the first day of the month after its issuance unless the lessee requests that it be dated the first day of the month of issuance.

§ 196.19 *Claims initiated prior to February 25, 1920.* Section 37 of the act of February 25, 1920 (41 Stat. 451; 30 U. S. C. 193), provides that thereafter the deposits of phosphates described in the act may be disposed of only in the manner provided by the act, "except as to valid claims existent at date of passage of this act, and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under said laws, including discovery." Those claims initiated under the pre-existing law may go to patent which, at the date of the act, were valid mining locations, duly made and maintained as such on lands subject to such location at the date initiated.

§ 196.20 *Limitation on overriding royalties.* An overriding royalty interest shall not be created by assignment or otherwise exceeding one per cent of the gross value of the output at point of shipment to market or an overriding royalty interest which when added to any other overriding royalty interest exceeds that percentage, excepting that where an interest in the leasehold, or operating agreement is assigned, the assignor may retain an overriding royalty interest in excess of the above limitation if he shows to the satisfaction of the authorized officer that he has made substantial investments for improvements on the land covered by the assignment.

This Circular replaces Circulars 1738, 1796, 1889, 1905, 1925, 1965 and 1986

GPO 944191

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2006]

PART 63—GRAZING

REIMBURSEMENT RIGHTS OF GRAZING LESSEES

Section 63.21 (b) is revised to read as shown below, present § 63.22 is renumbered to be § 63.23, and a new § 63.22 is added to read as shown below.

§ 63.21 *Removal of improvements and other property.* * * *

(b) If all moneys due have been paid and the lessee, on or before the termination of his lease in whole or in part for any reason, notifies the manager of his determination to leave on the land involved in such termination improvements, the construction or maintenance of which has been authorized, no other person shall use or occupy, under any permit, lease or entry under any public land law, the land on which such improvements are located, until there has been paid to the person entitled thereto the value of such improvements. If the interested parties are unable to reach an agreement as to such value, the amount may be fixed by the manager. All such agreements, to be effective, must be approved by the manager. The failure of the subsequent permittee, lessee, or entryman to pay the former lessee in accordance with such agreement will be just cause for the cancellation of the permit, lease, or entry.

§ 63.22 *Location, settlement, entry and other disposition of leased lands; determinations; preference rights.* (a) Lands leased under the act are not subject to settlement, location, and acquisition under the nonmineral public land laws applicable to Alaska unless and until the authorized officer of the Bureau of Land Management determines that the grazing lease should be cancelled or reduced in order to permit, in the public interest and without undue interference with the grazing operations, the appropriate development and utilization of the lands (see § 63.18), and that the lands are suitable for and otherwise subject to the intended settlement, location, entry or acquisition.. An application on the appropriate form or a notice on Form 4–1154, if applicable to the class of entry contemplated, will be accepted and treated as a petition for determination. Upon such determination and after not less than 30 days' notice thereof to the lessee the grazing lease may be cancelled or reduced to permit the settlement, location, entry or other acquisition of the lands so eliminated from the lease, and the petitioner will be accorded a preference right to settle upon or enter the lands in accordance with the determination.

(b) Unless otherwise withdrawn therefrom, lands leased under the act are subject to disposition under the mineral leasing laws and to mineral prospecting, location, and purchase under the mining laws, in accordance with the applicable regulations of Parts 69, 70, 71, and 185 of this chapter.

§ 63.23 *Appeals.* An appeal may be taken from any decision of the manager to the Director, and from any decision of the Director to the Secretary, pursuant to the rules of practice (Part 221 of this chapter).

(Sec. 15, 44 Stat. 1455, as amended; 48 U. S. C. 471n)

FRED A. SEATON,
Secretary of the Interior.

JUNE 30, 1958.

[F. R. Doc. 58–5163; Filed, July 7, 1958; 8:46 a. m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Subchapter L—Mineral Lands

[Circular 2007]

PART 185—GENERAL MINING REGULATIONS

SUBPART I—MINING, DEVELOPMENT, AND UTILIZATION OF THE MINERAL RESOURCES OF PUBLIC LANDS WITHDRAWN OR RESERVED FOR POWER DEVELOPMENT

Sec.

185.172 Purpose and authority.
185.173 Powersite lands opened to mineral location and development exception.
185.174 Power rights retained in United States.
185.175 O. & C. R. R. and Coos Bay Wagon lands subject to act of April 8, 1948.
185.176 Placer locator to conduct no mining operation for 60 days.
185.177 Hearing, time and place; fees and costs.
185.178 Bond or deposit required.
185.179 Restoration of surface condition.
185.180 Act ineffective as to other withdrawals.
185.181 Prospecting and development at financial risk of party or parties doing work.
185.182 United States not liable except for negligence.
185.183 Owner of claim to file notice of location and assessment work.
185.184 No limitation or restriction of rights under valid claims located prior to withdrawal.
185.185 No limitation of rights where claimant in diligent prosecution of work when future withdrawal made.
185.186 Mining claim and mill site use; limitation.

AUTHORITY: §§ 185.172 to 185.186 issued under R. S. 2478, as amended, sec. 2, 69 Stat. 682; 43 U. S. C. 1201, 30 U. S. C. 621.

§ 185.172 *Purpose and authority.* The act of August 11, 1955 (69 Stat. 681) was enacted "To permit the mining, development, and utilization of the mineral resources of all public lands withdrawn or reserved for power development, and for other purposes". The regulations in this part are intended to implement those parts of the act which require action by the Department of the Interior. The expression "act" shall mean the act of August 11, 1955 (69 Stat. 681), cited in the act as the "Mining Claims Rights Restoration Act of 1955".

§ 185.173 *Power site lands opened to mineral location and development; exception.* The act in section 2 provides in part as follows:

All public lands belonging to the United States heretofore, now or hereafter withdrawn or reserved for power development or power sites shall be open to entry for location and patent of mining claims and for mining, development, beneficiation, removal, and utilization of the mineral resources of such lands under applicable Federal statutes; * * * that nothing contained herein shall be construed to open for the purposes described in this section any lands (1) which are included in any project operating or being constructed under a license or permit issued under the Federal Power Act or other act of Congress, or (2) which are under examination and survey by a prospective licensee of the Federal Power Commission, if such prospective licensee holds an uncanceled preliminary permit issued under the Federal Power Act authorizing him to conduct such examination and survey with respect to such lands and such permit has not been renewed in the case of such prospective licensee more than once.

§ 185.174 *Power rights retained in the United States.* (a) The act in the first proviso provides as follows:

That all power rights to such lands shall be retained by the United States.

(b) Under this proviso every patent issued for such a location must contain a reservation unto the United States, its permittees or licensees of the right to enter upon, occupy and use, any part of the lands for power purposes without any claim or right to compensation accruing to the locator or successor in interest from the occupation or use of any of the lands within the location, for such purposes. Furthermore, the patent will contain a provision that the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

§ 185.175 *O. & C. R. R. and Coos Bay Wagon lands subject to the act of April 8, 1948.* The act in the second proviso thereof provides

that locations made under the act within the revested Oregon and California Railroad and reconveyed Coos Bay Wagon grant lands shall also be subject to the provisions of the Act of April 8, 1948 (62 Stat. 162).

See §§ 185.37a–185.37e.

§ 185.176 *Placer locator to conduct no mining operations for 60 days.* (a) The act in section 2 (b) provides in part as follows:

The locator of a placer claim under this Act, however, shall conduct no mining operations for a period of sixty days after the filing of a notice of location pursuant to section 4 of this Act. If the Secretary of the Interior, within sixty days from the filing of the notice of location, notifies the locator by registered mail of the Secretary's intention to hold a public hearing to determine whether placer mining operations would substantially interfere with other uses of the land included within the placer claim, mining operations on that claim shall be further suspended until the Secretary has held the hearing and has issued an appropriate order. The order issued by the Secretary of the Interior shall provide for one of the following: (1) a complete prohibition of placer mining; (2) a permission to engage in placer mining upon the condition that the locator shall, following placer operations, restore the surface of the claim to the condition in which it was immediately prior to those operations; or (3) a general permission to engage in placer mining. No order by the Secretary with respect to such operations shall be valid unless a certified copy is filed in the same State or county office in which the locator's notice of location has been filed, in compliance with the United States mining laws.

(b) Upon receipt of a notice of location of a placer claim filed in accordance

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with § 185.183 for land subject to location under the act, a determination will be made by the authorized officer of the Bureau of Land Management as to whether placer mining operations on the land may substantially interfere with other uses thereof. If it is determined that placer operations may substantially interfere with other uses, a notice of intention to hold a hearing will be sent to each of the locators by registered mail within 60 days from date of filing of the location notice.

§ 185.177 *Hearing, time, and place; notice by parties desiring to protest; fees and costs.* (a) If a hearing is to be held, notice of the hearing will be delivered personally or by registered mail to the locator of the placer claim. The notice will indicate the time and place of hearing. The procedures with respect to service of notice of hearing and conduct thereof shall follow the rules of practice of the Department of the Interior (Part 221 of this title) in effect at the time the hearing is held. No publication of the notice will be required but a copy thereof shall be posted in the proper land office of the Bureau of Land Management for a period of not less than 30 days prior to the date set for the hearing. The manager shall give such publicity to the hearing as may be done without expense to the Government.

(b) Any party, other than a Federal agency, desiring to appear and testify at a hearing in protest to placer mining operations must file a written notice of protest in the land office wherein the notice of hearing is posted. Such notice, accompanied by a $10 filing fee, must contain the party's name and address and a statement showing the nature of the party's interest in the use of the lands embraced within the mining claim. Each notice of protest must be filed within the period of time specified in the notice of hearing. The manager shall forward a copy of each such notice that is filed to the mining locator prior to the hearing. Each party appearing at the hearing shall pay the reporter's fee covering the testimony of the party and of his witnesses and his cross-examination of any other party or witnesses.

(c) Following the hearing, the examiner will render a decision, subject to the right of appeal by any person admitted as a party to the hearing in accordance with the rules of practice of the Department of the Interior (Part 221 of this title). Each decision by an examiner, or upon appeal, shall provide for the issuance of an appropriate order as provided in section 2 (b) of the act; but no such order shall issue until the decision, upon which it is based, becomes final. A certified copy of any order issued shall be filed in the same State or county office in which the location notice has been filed. Any such order permitting mining operations shall be filed at the expense of the mining locator.

§ 185.178 *Bond or deposit required.* Should a limited order be issued under section 2 (b) (2) of the act, the locator is required to furnish a bond in a sum determined by the Examiner. The bond must be either a corporate surety bond or a personal bond accompanied by cash or negotiable Federal securities equal at their par value to the amount of the penal sum of the bond, together with power-of-attorney to the Secretary of the Interior or his delegate.

§ 185.179 *Restoration of surface condition.* If the locator fails or refuses to restore the surface, appropriate action will be taken against him and his surety, including the appropriation of any money deposited on personal bonds, to be used for the purpose of restoring the surface of the claim involved. Any moneys on deposit or received from surety in excess of the amount needed for the restoration of the surface of the particular claim shall be refunded.

§ 185.180 *Act ineffective as to other withdrawals.* (a) The act in section 2 (c) provides as follows:

> Nothing in this act shall affect the validity of withdrawals or reservations for purposes other than power development.

(b) If the power site lands are also affected by any other type of withdrawal which prevents mining location in whole or in part, the provisions of the act apply only to the extent that the lands are otherwise open to location.

§ 185.181 *Prospecting and development at financial risk of party or parties doing work.* The act in section 3 provides in part as follows:

> Prospecting and exploration for and the development and utilization of mineral resources authorized in this act shall be entered into or continued at the financial risk of the individual party or parties undertaking such work.

§ 185.182 *United States not liable except for negligence.* The act in section 3 provides in part as follows:

> *Provided*, That the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

§ 185.183 *Owner of claim to file notice of location and assessment work.* (a) The act in section 4 provides as follows:

> The owner of any unpatented mining claim located on land described in section 2 of this act shall file for record in the United States district land office of the land district in which the claim is situated (1) within one year after the effective date of this act, as to any or all locations heretofore made, or within sixty days of location as to locations hereafter made, a copy of the notice of location of the claim; (2) within sixty days after the expiration of any annual assessment year, a statement as to any work done or improvements made during the previous assessment year.

(b) Neither section 4 nor any other provision of the act validates any mining location made prior to the act, which is invalid because made on lands after they were withdrawn or reserved for power purposes and before a favorable determination by the Federal Power Commission under section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1063; 1075), as amended (16 U. S. C. 792; 818) and the opening or restoration of the lands to location. Section 4 applies to unpatented locations for lands referred to in § 185.173 only if:

(1) The location was made on or after August 11, 1955, or

(2) The location was made prior to August 11, 1955 and prior to the withdrawal or reservation of the lands for power purposes, or

(3) The location was made prior to August 11, 1955 on lands restored to location from a powersite reserve or withdrawal subject to section 24 of the Federal Power Act.

(c) The owner of an unpatented location coming under paragraph (b) (1) of this section, within sixty days from the date of location shall file in the United States land office for the district in which the lands lie,[1] a copy of the notice or certificate of location and within sixty days after the expiration of each assessment year, a statement as to the assessment work done or improvements made during that assessment year.[2]

(d) The owner of an unpatented location coming under either paragraph (b) (2) or (3) of this section, before August 11, 1956 shall have filed in the United States land office for the district in which the lands lie[1] a copy of the notice or certificate of location and within 60 days from the date of expiration of the assessment year which ended noon July 1, 1956 and within 60 days from the date of expiration of each succeeding assessment year, shall file a statement as to the assessment work done or improvements made during the previous assessment year.

§ 185.184 *No limitation or restriction of rights under valid claims located prior to withdrawal.* (a) The act in section 5 provides:

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[1] In this connection, the land office for North Dakota and South Dakota is located at Billings, Montana; that for Nebraska at Cheyenne, Wyoming; and that for Arkansas, Florida, Louisiana and Mississippi, at Washington, D. C.

[2] For identification purposes only, the copy of the location notice or certificate, filed in the land office under this subsection, should contain a notation that it was filed under the Act of August 11, 1955.

Nothing in this act contained shall be construed to limit or restrict the rights of the owner or owners of any valid mining claim located prior to the date of withdrawal or reservation: *Provided,* That nothing in this act shall be construed to limit or restrict the rights of the owner or owners of any mining claim who are diligently working to make a discovery of valuable minerals at the time any future withdrawal or reservation for power development is made.

(b) Although the act does not limit or restrict the rights of owners of locations to which section 5 refers, such owners shall comply with section 4 by making the filings required either by paragraph (c) or paragraph (d) of § 185.183, whichever is applicable.

§ 185.185 *No limitation of rights where claimant in diligent prosecution of work when future withdrawals made.* (a) Under section 5 of the act quoted in § 185.114 the rights to a location made prior to any future withdrawal or reservation for power development or one on which the locator was diligently working to make a discovery of valuable minerals are not limited or restricted.

§ 185.186 *Mining claim and mill site use; limitation.* (a) The act in section 6 provides as follows:

Notwithstanding any other provisions of this act, all mining claims and mill sites or mineral rights located under the terms of this act or otherwise contained on the public lands as described in section 2 shall be used only for the purposes specified in section 2 and no facility or activity shall be erected or conducted thereon for other purposes.

(b) Under this section, a mining claim or mill site may not be used for purposes other than for legitimate mining and milling. The claimant, therefore, may not erect on the mining claim any facility or activity such as filling stations, curio shops, cafes, tourist or hunting and fishing lodges, or conduct such businesses thereon.

HATFIELD CHILSON,
Acting Secretary of the Interior.

JULY 10, 1958.

[F. R. Doc. 58-5449; Filed, July 16, 1958; 8:46 a. m.]

GPO 88 6551

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 2008]

PART 67—ALLOTMENTS TO INDIANS, ALEUTS, AND ESKIMOS

MISCELLANEOUS AMENDMENTS

1. The title to Part 67 is revised to read "Indians, Aleuts, and Eskimos."

2. A new center heading is added after § 67.11 to read "Possessory Claim Hearings."

3. Section 67.10 is revoked in its entirety.

4. Sections 67.1 to 67.9 and 67.11 are revised to read as follows:

ALLOTMENTS TO INDIANS, ALEUTS AND ESKIMOS

§ 67.1 *Statutory authority.* (a) The act of May 17, 1906 (34 Stat. 197), as amended August 2, 1956 (70 Stat. 954; 48 U. S. C. 357), authorizes the Secretary of the Interior to allot not to exceed 160 acres of vacant, unappropriated, and unreserved nonmineral land in Alaska or, subject to the provisions of the act of March 8, 1922 (42 Stat. 415; 48 U. S. C. 376–377), of vacant, unappropriated, and unreserved public land in Alaska that may be valuable for coal, oil, or gas deposits, or, under certain conditions, of national forest lands in Alaska, to certain Indians, Aleuts, or Eskimos of full or mixed blood, who reside in and are natives of Alaska.

(b) Under the Allotment Act, as amended, an applicant for allotment must be at least 21 years of age or the head of a family.

(c) Under the terms of the Allotment Act, as amended, the land allotted is deemed to be the homestead of the allottee and his heirs in perpetuity, and is inalienable and nontaxable. An Indian, Aleut, or Eskimo who receives an allotment under the act, or his heirs, however, may with the approval of the Secretary, convey the complete title to the allotted land by deed. The allotment shall thereafter be free of any restrictions against alienation and taxation unless the purchaser is an Indian, Aleut, or Eskimo native of Alaska who the Secretary determines is unable to manage the land without the protection of the United States and the conveyance provides for a continuance of such restrictions.

§ 67.2 *National forest lands.* Allotments may be made in national forests if founded on occupancy of the land prior to the establishment of the particular forest or if an authorized officer of the Department of Agriculture certifies that the land in the application for allotment is chiefly valuable for agricultural or grazing purposes.

§ 67.3 *Coal, oil, or gas lands.* Lands in applications for allotment and allotments that may be valuable for coal, oil, or gas deposits are subject to the regulations of Part 66 of this chapter.

§ 67.4 *Number of allotments; contiguity.* (a) No more than one allotment may be made to any one person.

(b) Lands in an allotment must be in a reasonably compact form and cannot consist of incontiguous tracts of land.

§ 67.5 *Applications for allotment.* (a) Applications for allotment must be filed, in triplicate on Form 4–021, properly and completely executed, in the land office which has jurisdiction over the lands. The application must be signed by the applicant but if he is unable to write his name, his mark or thumb print must be impressed on the application and witnessed by two persons.

(b) If surveyed, the land must be described in the application according to legal subdivisions of the public land surveys. If unsurveyed, it must be described as accurately as possible by metes and bounds and natural objects, and its position with reference to rivers, creeks, mountains or mountain peaks, towns or other prominent topographic points or natural objects or monuments, and to well-known nearby roads and trails, must be given.

(c) The application must be accompanied by a statement by the applicant that he has plainly indicated on the ground the corners of the land applied for by setting substantial posts or heaping up mounds of stones on each corner and that he has posted a notice of the application on the land, describing the tract applied for in the terms employed in the application on Form 4–021.

(d) Any application for allotment of lands which extend more than 160 rods along the shore of any navigable waters must be accompanied by a showing that the lands are not necessary for harborage, landing and wharf purposes and that the public interests will not be injured by waiver of the 160-rod limitation (see Part 77 of this chapter).

(e) Applications for allotment will be referred by the Bureau of Land Management to the Bureau of Indian Affairs for certification by an authorized officer that the applicant is a native qualified to make application under the Allotment Act, as amended. If the application is returned without such a certification, the application will be rejected.

(f) The filing of an application for allotment will grant no rights to the applicant over and above those which are specified in §§ 67.6 and 67.11. If the applicant does not submit the proof required by § 67.7 within 6 years of the filing of his application in the land office, his application for allotment will terminate without affecting the rights of the applicant gained by virtue of his occupancy of the land, or his rights to make another application. If the application was filed prior to the effective date of this paragraph, the application will be terminated under this paragraph only by decision of the authorized officer after appropriate notice to the applicant, granting him a reasonable period within which to file proof of continuous use and occupancy of the land as required by the regulation in this part.

§ 67.6 *Segregative effect of applications.* The filing of an acceptable application for allotment will segregate the lands to the extent that conflicting applications for such lands will be rejected, except when accompanied by a showing that the applicant for allotment has permanently abandoned occupancy of the land.

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§ 67.7 *Allotments.* An allotment will not be made until the applicant has made satisfactory proof of substantially continuous use and occupancy of the land for a period of five years and the lands are surveyed by the Bureau of Land Management. Such proof must be made in triplicate and filed in the appropriate land office. It must be signed by the applicant, but if he is unable to write his name, his mark or thumb print must be impressed on the statement and witnessed by two persons. The showing of five years' use and occupancy may be submitted with the application for allotment if the applicant has then used and occupied the land for five years, or at any time after the filing of the application when the required showing can be made. The proof should give the name of the applicant, identify the application on which it is based, and appropriately describe the land involved. It should show the periods each year applicant has resided on the land; the amount of the land cultivated each year to garden or other crops; the amount of crops harvested each year; the number and kinds of domestic animals kept on the land by the applicant and the years they were kept there; the character and value of the improvements made by the applicant and when they were made; and the use, if any, to which the land has been put for fishing or trapping.

§ 67.8 *Approval of conveyances.* Applications for approval of conveyances by an allottee or his heirs must be filed with the appropriate office of the Bureau of Indian Affairs.

§ 67.9 *Appeals.* An appeal pursuant to the rules of practice, Part 221 of this chapter, may be taken from the decision of the authorized officer of the Bureau of Land Management.

SEGREGATION OF OCCUPIED LANDS

§ 67.11 *Occupied lands not subject to entry.* Lands occupied by Indians, Aleuts, and Eskimos in good faith are not subject to entry or appropriation by others.

DECEMBER 2, 1958.

FRED A. SEATON,
Secretary of the Interior.

[F. R. Doc. 58-10099; Filed, Dec. 5, 1958; 8:46 a. m.]

GPO 867664

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2009]

PART 192—OIL AND GAS LEASING

Miscellaneous Amendments

1. Paragraphs (a) and (c) of § 192.3 are amended to read as follows, and new paragraphs (d) and (e) are added thereto:

§ 192.3 Acreage limitations.

(a) No person, association, or corporation, except as in the act provided, may hold more than 46,080 acres in any one State, or more than 100,000 acres in Alaska, whether directly through the ownership of leases or interests in leases and applications, or offers therefor or indirectly as a member of an association or associations, or as a stockholder of a corporation or corporations, holding leases or interests therein and applications or offers therefor. Leases or offers or applications for leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall not be included in computing accountable acreage. Leases or offers or applications for leases subject to an operating, drilling, or development contract approved by the Secretary of the Interior pursuant to section 17(b) of the act, other than communitization agreements, shall be excepted in determining the accountable acreage of the lessees or operators. Where, as the result of the termination or contraction of a unit or cooperative plan, or the elimination of a lease from an operating, drilling, or development plan, a party holds or controls excess accountable acreage, such party shall have 30 days from such termination or contraction or elimination in which to reduce his holdings to the prescribed limitation and to file proof of such reduction in the proper land office.

* * * * *

(c) No lease will be issued and no transfer or operating agreement will be approved until it has been shown that the offeror, transferee, or operator is entitled to hold the acreage or obtain the operating rights.

(d) At any time upon request by the authorized officer of the Bureau of Land Management, the record title holder of any lease or a lease operator or a lease offeror may be required to file in the appropriate land office a statement, showing as of a specified date the serial number and the date of each lease of which he is the record holder, or under which he holds operating rights, and each application or offer for lease held or filed by him in the particular State setting forth the acreage covered thereby, and the nature, extent and acreage interest, including royalty interests held by him in any oil and gas lease of which the reporting party is not the lessee of record, whether by corporate stock ownership, interest in unincorporated associations and partnerships, or in any other manner.

(e) (1) If any person holding or controlling only leases or interests in leases is found to hold accountable acreage in violation of the provisions of this section and of the act, the last lease or leases or interest or interests acquired by him which created the excess acreage holding shall be cancelled or forfeited in their entirety, even though only part of the acreage in the lease or interest constitutes excess holding, unless it can be shown to the satisfaction of the Director of the Bureau of Land Management that the holding or control of the excess acreage is not the result of negligence or willful intent, in which event the lease or leases shall be cancelled only to the extent of the excess acreage.

(2) If any person holding or controlling leases or interests in leases only, or applications or offers for leases only, or both leases or interest in leases and applications or offers, below the acreage limitation provided in this section, files an application or offer, or a group of applications or offers (filed simultaneously), which causes him to exceed the acreage limitation, the application or offer, or group of applications or offers, causing the excess holding, will be rejected in its entirety.

(3) If any person holding or controlling both leases or interests in leases and applications or offers for leases, or only applications or offers for leases below the acreage limitation provided in this section, acquires a lease or leases, or interests therein, which cause him to exceed the acreage limitation, his most recently filed application or offer, or applications or offers, then containing acreage in excess of the limitation provided in this section will be rejected in its or their entirety. For the purpose of this subparagraph, time of filing shall be determined by the time of filing marked on the application or offer or, if the same time is marked on two or more applications or offers, by the serial number of the applications or offers.

(4) The provisions of this paragraph shall not limit any action which the Department may take with respect to excess acreage holdings in cases not otherwise covered by this paragraph.

§ 192.4 [Amendment]

2. Paragraphs (a) and (e) of § 192.4 are amended to read as follows:

(a) Acreage held under a nonrenewable option, valid only for three years or such longer period as may be authorized by the Secretary, shall not be chargeable under § 192.3, but no optionee may hold options on leases or offers to lease at any one time for more than 200,000 acres in any one State.

* * * * *

(e) Each optionee must file in the appropriate land office within 90 days after June 30 and December 31 of each year duplicate statements under oath, showing as of the prior June 30 and December 31, respectively (1) name of optioner and serial number of lease, application or offer for lease subject to option; (2) date and expiration date of each option; (3) number of acres covered by each option, and (4) aggregate number of options held in each State, and total acreage thereof. Options statements covering lands in the State of California shall be filed in the land office at Sacramento, California, and statements covering lands in Alaska shall be filed in the land office at Anchorage, Alaska.

§ 192.42 [Amendment]

3. Subparagraph (3) of paragraph (e) of § 192.42 is amended and subdivided to read as follows:

(e) Each offer, when first filed, shall be accompanied by:

* * * * *

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2010]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Miscellaneous Amendments

1. Paragraph (k) (1) of § 161.2 is amended to read as follows:

§ 161.2 Definitions. * * *

(k) (1) "Land dependent by use" means forage land other than Federal range of such character that the conduct of an economic livestock operation requires the use of the Federal range in connection with it and which, in the "priority period", was used as a part of an established, permanent, and continuing livestock operation for any two consecutive years or for any three years of such priority period in connection with substantially the same part of the public domain, now part of the Federal range. Such land may be (i) parallel land, i.e., land of the same character, interspersed with, and grazed at the same time as the Federal range on which grazing privileges may be granted, except in those grazing districts which by special rule have excluded parallel land as base property,[1] (ii) land of different character than the Federal range and which properly supports the permitted livestock during all or part of the period that the Federal range is closed to grazing, or (iii) a combination of these two types of land. The priority period shall be the five-year period immediately preceding June 28, 1934, except that if such Federal range was placed within a grazing district after June 28, 1938, or added to an existing grazing district by boundary modification after the latter date, the priority period shall be the five years immediately preceding the date of the order establishing such district or effecting such addition, as the case may be.

2. Paragraph (k) (3) (ii) of § 161.2 is revised to read as follows:

(ii) It shall not exceed the amount of forage needed for the number of livestock creating such dependency by use that were customarily and properly sustained on the base property during the priority period and continue to use such property to the same extent, except that in no instance shall the use of base property be for less than the minimum period established under § 161.4. The grazing privileges which may be granted hereunder shall not exceed the amounts determined under subdivision (i) or (ii) of this subparagraph, whichever is the lesser. Where the base property provides forage in excess of that necessary for the proper support of the number of livestock used in creating the dependency by use (class 1) the base property, to the extent of such excess forage capacity, may be treated as dependent by location (class 2) if so qualified.

3. Paragraph (d) (2) of § 161.5 is amended to read as follows:

§ 161.5 Rating and classification of Federal range. * * *

(d) *Unit-wide or area-wide adjudication.* * * *

(2) The district manager shall give written notice by registered mail[2] of such classification and allocation to the persons offering such base properties, naming a place and date not less than 30 days thereafter to file protest to the advisory board, in accordance with § 161.9 (b). Thereafter, and provided there is then pending a valid application for grazing privileges, the district manager will render his final decision thereon and will allow the right of appeal to the Examiner in accordance with § 161.10.

4. Paragraph (d) of § 161.6 is amended to read as follows:

§ 161.6 Issuance of licenses and permits. * * *

(d) *Nonrenewable licenses.* Nonrenewable licenses may be issued to nonpreference applicants only for the period specified by the district manager and for the number of livestock for which range is temporarily available and which can be properly grazed without detriment to the operations regularly authorized on the basis of properties in class 1 and class 2.

5. In § 161.6(e), subparagraphs (7), (9), (12), (13) (ii) and (14) (ii) are amended and a new subparagraph (14) (iii) is added as follows:

(e) *Terms and conditions.* * * *

(7) If a licensee or permittee for two consecutive years ceases to make substantial use of his base property in connection with his year-round livestock operation, the authorized use under such license or permit and the qualifications of the base property may be subject to reduction in proportion to the diminished use of the base property.

* * * * *

(9) Base property qualifications, in whole or in part, will be lost upon the failure for any two consecutive years:

(i) To offer base property which is not covered by an outstanding current term permit to the full extent of its qualification in an application for a license or permit or renewal thereof, or to apply for nonuse thereof in whole or in part or

(ii) To accept a license or permit issued pursuant to such application.

* * * * *

(12) A revocation of a license or permit in whole or in part may result in a proportionate loss of the base property qualifications supporting such license or permit.

(13) * * *

(ii) The Bureau of Land Management may make adjustments in licenses and permits at any time when necessary to comply with the Federal Range Code for Grazing Districts.

(14) * * *

(ii) May require any licensee or permittee who will benefit in some substantial measure from such fence construction, as a condition to the renewal of an existing license or permit, likewise to pay or to reimburse an equitable share of the cost of such fence construction and maintenance. The amount of such share may be established by agreement of the parties, or, upon their failure to agree, by determination of the district manager.

(iii) May take necessary action to enforce the requirements under subdivisions (i) and (ii) of this subparagraph,

[1] Such rules were adopted in Montana Grazing District No. 5, Utah Grazing District No. 1, and all grazing districts in Oregon.

[2] Wherever registered mail is required in this part, certified mail may be used in lieu thereof in accordance with § 101.19 of this chapter.

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in accordance with the provisions of § 161.9(d).

6. Paragraph (a)(1) of § 161.7 is amended to read as follows:

§ 161.7 Transfers of base property; base property qualifications; relinquishments.

(a) *Transfer of base property; affect.* (1) A transfer of a base property or part thereof, whether by agreement, operation of law, or testamentary disposition, will entitle the transferee, if qualified under § 161.3(a), to so much of the grazing privileges as are based thereon. In any event, the existing license or permit and the grazing privileges thereunder shall automatically and without further notice be terminated or decreased by such transfer to the extent of the grazing privileges attaching to the transferred base property; except that further grazing under the license or permit may be temporarily extended pursuant to request and notification filed in accordance with § 161.6 (e)(8)(i).

7. Paragraphs (c) and (d) of § 161.8 are amended to read as follows:

§ 161.8 Fees; time of payment; refunds. * * *

(c) *Crossing permits.* Upon application filed with the district manager by any person showing the necessity for crossing the Federal range with livestock for proper and lawful purposes, a crossing permit may be issued to him at a charge, payable in advance, of one cent per head per day for cattle, two cents per head per day for horses, and one-fifth cent per head per day for sheep and goats. A minimum charge of $5 will be made for each crossing permit, except that no fee will be charged where the trail to be used is so limited and defined that no substantial amount of forage will be consumed in transit, or to the extent the crossing permit involves the use of a stock driveway created under section 10 of the Stockraising Homestead Act of December 29, 1916 (39 Stat. 862; 43 U.S.C. 300).

(d) *Payment of fees; reduction or increase in numbers; modification of periods of use.* No license or permit shall be issued or renewed until payment of all fees due the United States under the Federal Range Code for Grazing Districts has been made. Fees for licenses and permits are due the United States upon issuance of the fee notice and are payable at least 15 days in advance of the first grazing period and for the full amount indicated on the fee notice; no license or permit shall be effective to authorize grazing use thereunder until such advance payment has been made.[1]

A permit may be canceled or reduced pursuant to § 161.9(d) for failure to pay the fee in accordance with the fee notice. Any licensee or permittee who desires to make temporary use of the grazing privileges during any authorized grazing period or periods in a manner other than that authorized in his existing license or permit must file with the district manager a written request for such change in use at least 30 days prior to the beginning of any such grazing period. If the district manager approves the request he will issue an adjusted fee notice accordingly.

8. A new subparagraph (4) is added to paragraph (b) of § 161.11, as follows:

§ 161.11 General rules of the range. * * *

(b) *Rules of fair range practice.* * * *

(4) When so requested by the State Supervisor or district manager, the licensee or permittee shall join with the Bureau of Land Management in preparing a fire plan which shall set forth in detail the program for prevention, control, and extinguishment of fires, including the responsibility of the licensee or permittee for action on his range allotment and on adjacent Federal range.

9. Paragraphs (d), (e)(1) and 2) of § 161.12 are amended to read as follows:

§ 161.12 Procedure for enforcement of rules and regulations. * * *

(d) *Amicable settlement of civil cases involving unauthorized use of the Federal range or damage to Federal property.* All offers of settlement for the value of the forage consumed in trespass and for damage to Federal range or to other property of the United States resulting from an alleged violation of any provision of the act or of the Federal Range Code for Grazing Districts in the amount of $2,000 or less may be accepted by the district manager. Offers of settlement in excess of $2,000 will be transmitted to the State Supervisor for appropriate action. An offer of settlement will not constitute satisfaction of civil liability for the consumed forage and damage involved until finally accepted by the district manager or the State Supervisor, and in no event will it relieve the violator of criminal liability. No license or permit will be issued or renewed until payment of any amount found to be due the United States under this section has been offered.

(e) *Disciplinary action for violations; show cause.* (1) Whenever it appears to the State Supervisor that a wilful violation exists he shall cause a written notice to be served upon the licensee or permittee. The notice shall set forth the act or acts complained of, specifically referring to the terms, conditions, or provisions of the license or permit and the section or sections of the Federal Range Code for Grazing Districts or of the act alleged to have been violated, and an estimate of the amount of damages resulting therefrom, including the reasonable commercial value of any forage consumed. The notice will cite the licensee or permittee to appear before an Examiner of the Bureau of Land Management at a designated time and place to show cause why his license or permit should not be reduced or revoked or renewal thereof denied and satisfaction of damages made.

(2) The hearing upon the order to show cause will be conducted so far as practicable in the same manner as other hearings before an examiner. The evidence shall be confined to the commission of the acts charged and the amount of damages, including the reasonable commercial value of any forage consumed, due the United States. If the alleged violation is established to the satisfaction of the examiner, or upon the failure, without proper excuse satisfactory to the examiner, of the person named in the notice or his representative to appear at the hearing, the examiner will render a written decision assessing the amount of damages, including the reasonable commercial value of forage consumed and directing the district manager to suspend, reduce, or revoke the license or permit or to deny renewal, if the facts so warrant.

FRED A. SEATON,
Secretary of the Interior.

JANUARY 9, 1959.

[F.R. Doc. 59-366; Filed, Jan. 14, 1959; 8:47 a.m.]

[1] Any grazing on the Federal range within grazing districts in the absence of effective license or permit is unlawful and prohibited; such unauthorized grazing shall be deemed in trespass and may be proceeded against as provided in § 161.12, or by other action under the law.

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular 2011

PART 232—DESERT-LAND ENTRIES

ENTRY OF NONCONTIGUOUS TRACTS

The headnote and present text in § 232.7 are amended to read as follows:

§ 232.7 Economic unit requirements, compactness.

(a) One or more tracts of public lands may be included in a desert land entry and the tracts so entered need not be contiguous. All the tracts entered, however, shall be sufficiently close to each other to be managed satisfactorily as an economic unit. In addition, the lands in the entry must be in as compact a form as possible taking into consideration the character of available public lands and the effect of allowance of the entry on the remaining public lands in the area.

(b) In determining whether an entry can be allowed in the form sought, the authorized officer of the Bureau of Land Management will take into consideration such factors as the topography of the tracts for and adjoining lands, the availability of public lands near the lands sought, the private lands farmed by the applicant, the farming systems and practices common to the locality and the character of the lands sought, and the practicability of farming the lands as an economically feasible operating unit.

(c) In addition to the other requirements of the regulations in this part, applicants for desert land entry must submit with their applications information showing that the tracts applied for are sufficiently close to each other to be managed satisfactorily as an economic unit and that the lands in the application are as compact as possible in the circumstances.

(R.S. 2478; 43 U.S.C. 1201)

TOM A. WALKER,
Secretary of the Interior.

JANUARY 8, 1969.

[F.R. Doc. 69-561; Filed, Jan. 15, 1969; 8:45 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular 2011

PART 232—DESERT-LAND ENTRIES

ENTRY OF DISCONNECTED TRACTS

The headnote and present text in § 232.7 are amended to read as follows:

§ 232.7 Economic unit requirements, compactness.

(a) One or more tracts of public lands may be included in a desert land entry and the tracts so entered need not be contiguous. All the tracts entered, however, shall be sufficiently, close to each other to be managed satisfactorily as an economic unit. In addition, the lands in the entry must be in as compact a form as possible taking into consideration the character of available public lands and the effect of allowance of the entry on the remaining public lands in the area.

(b) In determining whether an entry can be allowed in the form sought, the authorized officer of the Bureau of Land Management will take into consideration such factors as the topography of the applied for and adjoining lands, the availability of public lands near the lands sought, the private lands farmed by the applicant, the farming systems and practices common to the locality and the character of the lands sought, and the practicability of farming the lands as an economically feasible operating unit.

(c) In addition to the other requirements of the regulations in this part, applicants for desert land entry must submit with their applications information showing that the tracts applied for are sufficiently close to each other to be managed satisfactorily as an economic unit and that the lands in the application are as compact as possible in the circumstances.

(R.S. 2478; 43 U.S.C. 1201)

FRED A. SEATON,
Secretary of the Interior.

JANUARY 9, 1959.

[F.R. Doc. 59-358; Filed, Jan. 14, 1959; 8:46 a.m.]

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In litigation and may be proceeded against as provided in § 161.12 or by other action under the law.

Repl by C-2161

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2012]

PART 244—RIGHTS-OF-WAY OTHER THAN FOR RAILROAD PURPOSES AND FOR LOGGING ROADS ON OREGON AND CALIFORNIA AND COOS BAY REVESTED LANDS

Nature of Interest Granted; Settlement on Right-of-Way; Rights of Ingress and Egress

1. The title to § 244.7 is revised to read as shown below.

2. Paragraph (c) is added to § 244.7 to read as follows:

§ 244.7 Nature of interest granted; settlement on right-of-way; rights of ingress and egress.

* * * * *

(c) In order to facilitate the use of a right-of-way granted or applied for under the regulations of this part, the authorized officer may grant to the holder of or applicant for such right-of-way an additional right-of-way for ingress and egress to the primary right-of-way, including the right to construct, operate, and maintain such facilities as may be necessary for ingress and egress. The holder or applicant may obtain such additional right-of-way only over lands for which the authorized officer has authority to grant a right-of-way of the type represented by the primary right-of-way held or requested by the applicant. He must comply with the same provisions of the regulations applicable to his primary right-of-way with respect to the form of and place of filing his application for an additional right-of-way, the filing of maps and other information, and the payment of rental charges for the use of the additional right-of-way. He must also present satisfactory evidence that the additional right-of-way is reasonably necessary for the use, operation, or maintenance of the primary right-of-way.

(R.S. 161, 453, 2478; 5 U.S.C. 22, 43 U.S.C. 2, 1201)

ELMER F. BENNETT,
Acting Secretary of the Interior.

FEBRUARY 2, 1959.

[F.R. Doc. 59-1055; Filed, Feb. 5, 1959; 8:50 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2013]

PART 295—WITHDRAWALS AND RESERVATIONS OF FEDERAL LANDS

Relinquishment of Withdrawn or Reserved Federal Lands

Sections 295.17 to 295.20 are added to Part 295 to read as follows:

RELINQUISHMENT OF WITHDRAWN OR RESERVED FEDERAL LANDS

Sec.

295.17 Surplus property; statutory exceptions
295.18 Scope of regulations; relinquishment procedure
295.19 Return of lands to the public domain; conditions
295.20 Declarations to General Services Administration

AUTHORITY: §§ 295.17 to 295.20 issued under 63 Stat. 377 as amended. R.S. 2478; 40 U.S.C. 472; 43 U.S.C. 1201.

§ 295.17 Surplus property; statutory exceptions.

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended, governs the disposal of surplus Federal lands or interests in lands. Section 3 of that act (40 U.S.C. 472), as amended, February 28, 1958 (72 Stat. 29), excepts from its provisions the following:

(a) The public domain.

(b) Lands reserved or dedicated for national forest or national park purposes.

(c) Minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws.

(d) Lands withdrawn or reserved from the public domain, but not including lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator of the General Services Administration, determines are not suitable for return to the public domain for disposition under the general public-land laws, because such lands are substantially changed in character by improvements or otherwise.

§ 295.18 Scope of regulations; relinquishment procedure.

(a) The regulations of §§ 295.17 to 295.20 apply to lands and interests in lands withdrawn or reserved from the public domain, except lands reserved or dedicated for national forest or national park purposes, which are no longer needed by the agency for which the lands are withdrawn or reserved.

(b) Agencies holding withdrawn or reserved lands which they no longer need will file, in duplicate, a notice of intention to relinquish such lands in the proper land office in the State in which the lands are located. For lands in States in which there is no land office, they shall file their notices with the Bureau of Land Management, Washington 25, D. C., except that notices for lands in North Dakota or South Dakota shall be filed in the Land Office at Billings, Montana, notices for lands in Kansas or Nebraska shall be filed in the Land Office at Cheyenne, Wyoming, and for lands in Oklahoma in the Land Office at Santa Fe, New Mexico.

(c) No specific form of notice is required, but all notices must contain the following information:

(1) Name and address of the holding agency.

(2) Citation of the order which withdrew or reserved the lands for the holding agency.

(3) Legal description and acreage of the lands, except where reference to the order of withdrawal or reservation is sufficient to identify them.

(4) Description of the improvements existing on the lands.

(5) The extent to which the lands are contaminated and the nature of the contamination.

(6) The extent to which the lands have been decontaminated or the measures taken to protect the public from the contamination and the proposals of the holding agency to maintain protective measures.

(7) The extent to which the lands have been changed in character other than by construction of improvements.

(8) The extent to which the lands or resources thereon have been disturbed and the measures taken or proposed to be taken to recondition the property.

(9) If improvements on the lands have been abandoned, a certification that the holding agency has exhausted General Services Administration procedures for their disposal and that the improvements are without value.

(10) A description of the easements or other rights and privileges which the holding agency or its predecessors have granted covering the lands.

(11) A list of the terms and conditions, if any, which the holding agency deems necessary to be incorporated in any further disposition of the lands in order to protect the public interest.

(12) Any information relating to the interest of other agencies or individuals in acquiring use of or title to the property or any portion of it.

(13) Recommendations as to the further disposition of the lands, including, where appropriate, disposition by the General Services Administration.

(d) The holding agency will send one copy of its report on unneeded lands to the appropriate regional office of the General Services Administration for its information.

§ 295.19 Return of lands to the public domain; conditions.

(a) When the authorized officer of the Bureau of Land Management determines the holding agency has complied with the regulations of this part, including the conditions specified in paragraph (b) of this section, and that the lands or interests in lands are suitable for return to the public domain for disposition under the general public land laws, he will notify the holding agency that the Department of the Interior accepts accountability and responsibility for the

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property, sending a copy of this notice to the appropriate regional office of the General Services Administration.

(b) Agencies will not be discharged of their accountability and responsibility under this section unless and until:

(1) The lands have been decontaminated of all dangerous materials and have been restored to suitable condition or, if it is uneconomical to decontaminate or restore them, the holding agency posts them and installs protective devices and agrees to maintain the notices and devices.

(2) To the extent deemed necessary by the authorized officer of the Bureau of Land Management, the holding agency has undertaken or agrees to undertake or to have undertaken appropriate land treatment measures correcting, arresting, or preventing deterioration of the land and resources thereof which has resulted or may result from the agency's use or possession of the lands.

(3) The holding agency, in respect to improvements which are of no value, has exhausted General Services Administration's procedures for their disposal and certifies that they are of no value.

(4) The holding agency has resolved, through a final grant or denial, all commitments to third parties relative to rights and privileges in and to the lands or interests therein.

(5) The holding agency has submitted to the appropriate office mentioned in paragraph (b) of § 295.18 a copy of, or the case file on, easements, leases, or other encumbrances with which the holding agency or its predecessors have burdened the lands or interests therein.

§ 295.20 Declarations to General Services Administration.

(a) When the authorized officer of the Bureau of Land Management determines that the holding agency has complied with the regulations of this part and that the lands or interests in lands other than minerals are not suitable for return to the public domain for disposition under the general public land laws, because the lands are substantially changed in character by improvements or otherwise, he will request the appropriate officer of the General Services Administration, or its delegate, to concur in his determination.

(b) When the authorized officer of the Bureau of Land Management determines that minerals in lands subject to the provisions of paragraph (a) of this section are not suitable for disposition under the public land mining or mineral leasing laws, he will notify the appropriate officer of the General Services Administration or its delegate of this determination.

(c) Upon receipt of the concurrence specified in paragraph (a) of this section, the authorized officer of the Bureau of Land Management will notify the holding agency to report as excess property the lands and improvements therein, or interests in lands to the General Services Administration pursuant to the regulations of that Administration. The authorized officer of the Bureau of Land Management will request the holding agency to include minerals in its report to the General Services Administration only when the provisions of paragraph (b) of this section apply. He will also submit to the holding agency, for transmittal with its report to the General Services Administration, information of record in the Bureau of Land Management on the claims, if any, by agencies other than the holding agency of primary, joint, or secondary jurisdiction over the lands and on any encumbrances under the public land laws.

FRED A. SEATON,
Secretary of the Interior.

FEBRUARY 6, 1959.

[F.R. Doc. 59-1301; Filed, Feb. 12, 1959; 8:46 a.m.]

GPO 871104

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2014]

PART 160—GRAZING LEASES

Miscellaneous Amendments

1. The title to § 160.12 and paragraph (a) of that section are revised to read:

§ 160.12 Lease lands subject to disposition; compensation to lessee for loss of improvements.

(a) Lands embraced in a grazing lease are subject to disposition under the provisions of the Act of June 28, 1934 (48 Stat. 1272, 1274), as amended, or other public land laws. Before any application for such disposition is allowed, evidence must be furnished that the applicant has agreed to compensate the lessee and the United States for any grazing improvements placed on the lands under the authority of the lease, permit, or cooperative agreement in an amount and manner to be mutually agreed upon. If the parties are unable to agree as to the amount, manner and time for compensation for such improvements, the amount, manner and time shall be fixed by the authorized officer. The failure of the applicant to comply with the agreement or the conditions fixed by the authorized officer shall be just cause for cancellation of any right or interest in the lands acquired by the applicant by reason of the allowance of his application.

2. Section 160.14 is revised to read:

§ 160.14 Rentals; schedule of grazing fees; billing notices; effect of failure to pay.

(a) The annual rental charge for the use of the leased land will be based on the number of acres under lease, the estimated grazing capacity in AUMs (animal unit months), and the rate per AUM indicated in the then-current schedule of grazing fees established by the Director, Bureau of Land Management. The schedule of grazing fees will be established and may be modified, revised, or amended as the Director may determine from time to time and notice thereof shall be published in the FEDERAL REGISTER. The schedule rate will be effective (1) immediately as to new leases issued after date of publication; (2) 30 days after publication as to existing leases, the rental period of which begins after the 30-day period. The minimum rental on a lease shall not be less than $1 per annum.

(b) Rental groups: (1) Where the rental charge for a new lease is $50 or less for the full term of the lease, the entire amount shall be paid in advance and the rental charges will not be revised during the term of the lease. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12;

(2) Where the rental for the entire lease term exceeds $50 and the rental for the first three-year period is $100 or less, the total amount for such three-year period shall be paid in advance. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12. Rental charges may be revised at the end of each three-year period based on the grazing fee schedule then in effect. Billing notices will be issued prior to the termination of each three-year period and the rental is due and payable upon receipt of the billing notice;

(3) Where the amount of the rental charge for the first three-year period would exceed $100, the rental shall be charged and paid annually based on the then effective grazing fee schedule. A billing notice for the amount of such annual rental will be sent each lessee in advance and is due and payable upon receipt. No part of the rental paid will be refunded because of cancellation, relinquishment or assignment, except as provided in §§ 160.11 and 160.12.

(c) Effect of failure to pay: The first rental payment required under a proposed lease in accordance with this section shall be made within 10 days from receipt of the lease form; if not paid within such time the lease shall be null and void and of no effect and all rights of the proposed lessee thereunder or under the application upon which it is based shall be considered as terminated. Subsequent rental payments for succeeding lease periods as required by paragraph (b) (2) or (3) of this section are payable in advance. In any event, if such payment is not received in the proper office by the last day of the current lease period, or within 10 days of lessee's receipt of the billing notice, whichever is the later, then the lease shall be considered as cancelled and all rights thereunder terminated as of the end of such current lease period.

(d) No refund of rentals properly paid in accordance with the regulations in this part and the terms of the lease will be made because of a failure to use the grazing privileges granted by the lease, except that during periods of range depletion due to severe drouth or other natural causes or in case of a general epidemic of disease during the life of the lease the Director will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of rentals for such period of depletion or general epidemic.

3. Section 160.19 is revised to read:

§ 160.19 Cancellation.

Except as otherwise provided in § 160.14, if the lessee shall fail to comply with any of the provisions of the regulations in this part or of the lease or of any cooperative agreement (Form 4–1119) entered into with the Bureau of Land Management for the benefit of the lease, and such default shall continue for 30 days after service of written notice thereof, or if the lease was issued improperly through error with respect to a material fact or facts, the lease may be terminated and cancelled by the authorized officer.

(Sec. 2, 48 Stat. 1270; 43 U.S.C. 315a)

FRED A. SEATON,
Secretary of the Interior

MARCH 10, 1959.

[F.R. Doc. 59–2180; Filed, Mar. 13, 1959; 8:46 a.m.]

Published in 24 F. R. March 14, 1959

Circular Distribution List

This circular replaces circulars 1882 and 1898

GPO 872765

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2015]

PART 192—OIL AND GAS LEASES

Limitation of Overriding Royalties

Section 192.83 is amended to read as follows:

§ 192.83 Limitation of overriding royalties.

An agreement creating overriding royalties or payments out of the production of oil which, when added to overriding royalties or payments out of production of oil previously created and to the royalty payable to the United States, aggregate in excess of 17½ percent shall be deemed a violation of the terms of the lease unless such agreement expressly provides that the obligation to pay such excess overriding royalty or payments out of production of oil shall be suspended when the average production of oil per well per day averaged on the monthly basis is 15 barrels or less. The limitation on overriding royalties or payments out of production is not applicable to the production of gas.

ELMER F. BENNETT,
Acting Secretary of the Interior.

MARCH 25, 1959.

[F.R. Doc. 59-2752; Filed, Apr. 1, 1959; 8:47 a.m.]

Published in 24 F. R. April 2, 1959

Circular Distribution List

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular 2016

Part 255—Town Sites [1]

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255.47 Public reserves; patents therefor.

GRANT OF LANDS IN RECLAMATION TOWN SITES FOR SCHOOL PURPOSES

255.48 Application to be made by school district; action thereon.

PUBLIC RESERVES IN OKLAHOMA TOWN SITES

255.49 Applications for patents on behalf of the municipalities.
255.50 Disposal of unpatented public reserves in vacated town sites.
255.51 Disposal of patented public reserve in vacated town sites.

TOWN SITES ON MINERAL LANDS

Sec.
255.52 Rights of mineral claimant; exclusion of mineral claim or mill site from town-site entry.

RIGHTS OF TRANSFEREES OF TOWN LOTS

255.53 Patent to issue in name of original purchaser.

QUALIFICATIONS OF TOWN-LOT PURCHASERS

255.54 Evidence of citizenship or incorporation required.

AUTHORITY: §§ 255.1 to 255.54 issued under R. S. 2478; 43 U. S. C. 1201. Interpret or apply R. S. 2380–2389, as amended, 2391–2394, secs. 1, 3, 4, 19 Stat. 392, as amended, sec. 16, 26 Stat. 1101, 26 Stat. 502, 32 Stat. 820; 43 U. S. C. 711–731.

SOURCE: §§ 255.1 to 255.54 appear at 19 F. R. 9122, Dec. 23, 1954.

CROSS REFERENCES: For Bureau of Reclamation, see Chapter II of this title. For land classifications, see Part 296 of this chapter. For patents, see Part 108 of this chapter. For surveys, see Part 280 of this chapter. For town sites, Alaska, see Part 80 of this chapter.

TOWN SITES RESERVED BY THE PRESIDENT OR BY PUBLIC LAND ORDER

§ 255.1 *Reservation of public lands for town site purposes.* Public lands have been reserved by the President for town site purposes, from time to time, under section 2380 of the Revised Statutes (43 U. S. C. 711). Reservations for such purposes may now be made by public land order, by the Secretary of the Interior, pursuant to Executive Order No. 9337 [2] of April 24, 1943 (3 CFR, 1943 Cum. Supp.) The reservations may be made by the Secretary of the Interior on his own motion, or petitions may be addressed to him requesting the reservations. Such petitions should be filed with the area administrator for the area in which the lands are situated.

§ 255.2 *Survey of reserved land into blocks and lots; appraisal thereof.* Town sites reserved under section 2380, Revised Statutes, or under any other law directing their disposition under section 2381, Revised Statutes (43 U. S. C. 712) will be surveyed, when ordered by the Bureau of Land Management, into urban, or urban and suburban, lots and blocks, and thereafter the lots and blocks will be appraised by such disinterested person or persons as may be appointed by the area administrator.

[1] This part contains the general town-site regulations.

There are hundreds of Government town sites in which the disposal of particular lots is governed by special acts of Congress and by special regulations. Such regulations have not been codified, in view of their limited application

Information respecting the regulations governing town-lot sales in any particular Government town site will be furnished on request by the Director of the Bureau of Land Management.

[2] Superseded by E. O. 10355 (17 F. R. 4831, 3 CFR, 1952 Supp.)

Reprint April 14, 1959
Part 255, 43 CFR

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They will examine each lot to be appraised and determine the fair and just cash value thereof. Improvements on such lots, if any, must not be considered in fixing such value. Lots or blocks reserved for public purposes will not be appraised.

§ 255.3 *Schedule of appraisement; disposal of copies thereof.* The schedule of appraisement must be prepared in triplicate on forms furnished by the area administrator, and the certificates at the end thereof must be signed by each appraiser, and on being so completed they must be immediately transmitted to said officer.

§ 255.4 *Time, place, and terms of sale.* A notice of sale will be issued in each case by the authorized officer prescribing the time when, the place where, and the terms under which the lots will be offered.

§ 255.5 *Publication in Federal Register; sale to be given other publicity.* Every notice of sale shall be published in the FEDERAL REGISTER and every sale shall be given such other publicity, without cost to the Government, as may be deemed proper by the authorized officer.

§ 255.6 *Lot purchase limitation authorized; manner of making bids.* In appropriate cases the authorized officer may limit the number of lots each person may buy. Bids and payments may be made through agents, but not by mail, or at any time or place other than that fixed in the notice of sale.

§ 255.7 *Penalty for combinations in restraint of the sale.* All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously, or which will in any way hinder or prevent the sale, and all persons so offending will be prosecuted under 18 U. S. C. 1860.

§ 255.8 *Reoffering at public sale; private entry.* (a) An offering at public sale may be adjourned or closed, in the discretion of the area administrator or other officer conducting the sale. If adjourned, the unsold lots will be held for future disposition at public sale. If closed, the unsold lots will become subject to private entry at the appraised price.

(b) Lots sold at public sale and forfeited because of nonpayment of the purchase price, or for any other reason, will be held for further offering at public sale, unless reentry of the lots at private sale, at a designated price, is authorized by the notice under which the lots are sold.

(c) Lots sold at private sale should be accompanied by an application therefor, signed by the applicant.

TOWN SITES PLATTED BY OR FOR OCCUPANTS

§ 255.9 *Town site settlement.* Section 2382 of the Revised Statutes, as amended by the act of August 24, 1954 (68 Stat. 792) and sections 2383, 2384, and 2386 of the Revised Statutes (43 U. S. C. 713–715, 717), authorize the platting of town sites by or for the occupants and the disposal of such town sites, where town site settlement has been or may be made upon unreserved public lands subject to such settlement. Public lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, or 6964 of February 5, 1935, are not subject to occupation for town site purposes unless first classified for such occupation, pursuant to Part 296 of this chapter.

§ 255.10 *Filing with county recorder of plat, field notes, and statement of improvements.*[3] (a) The occupants, at their own expense, must cause a survey of the land into lots, blocks, streets, and alleys to be made, and the plat and field notes thereof to be filed with the recorder of the county in which the land is situated. The plat must show (1) that the land does not include an area in excess of 640 acres; (2) that the boundaries of the land are correctly shown and described thereon according to the lines of the public surveys, or if not so surveyed, then that the exterior lines of the townsite survey are tied to a designated, permanent, and thoroughly identified monument; (3) that the streets, blocks, lots, and alleys, the dimensions of the same, with measurements, courses, and area of each municipal subdivision, and the name of the town, are correctly delineated thereon; and (4) the exterior lines of all existing railroad rights-of-way and station grounds. The lots shall conform in size to local ordinances or accepted local standards for subdivision platting, or in the absence of such ordinances or standards, to standards prescribed by the authorized official of the Bureau of Land Management. The above-required facts should be embodied in the statement of the surveyor entered upon the margin of the plat.

(b) A statement of the extent and general character of the improvements on the land must be filed with the plat and field notes, and over the signature of the party acting for and on behalf of the occupants of the land.

§ 255.11 *Filing in land office, in duplicate, of transcript of plat, field notes, and statement.* (a) Within one month after filing such plat, field notes, and statement, a transcript thereof in duplicate, each copy duly verified by the certificate of the county recorder, and accompanied by the statement of the two persons that such town has been established in good faith, and showing the number of inhabitants thereof and when it was so established, shall be filed with the manager of the land office having jurisdiction over the land district in which the town site is located.

(b) All filings made in accordance with this section must be accompanied by a service charge of $5 which will not be returnable.

§ 255.12 *Notice to be issued; preemption proofs; public sale of unclaimed lots.* After the town site plat has been approved by the Bureau of Land Management, a notice will be published in the FEDERAL REGISTER stating the conditions under which preemption proofs may be submitted by the lot claimants and the time, place, and conditions for the offering of the unclaimed lots at public sale. This notice should be given such other publicity without cost to the Government as is deemed appropriate.

§ 255.13 *Adjustment of town-site survey to township survey.* When the town site is upon land over which the township surveys have not been extended, the area cadastral engineering officer will be notified and thereafter, when the township surveys have been extended over the land, the exterior lines of the town site may be adjusted thereto where it can be done without impairing vested rights.

§ 255.14 *Survey by Department of the Interior; increase in price of lots.* Refusal or failure to file such transcript, plat, field notes, and statement, with the testimony, as required, within 12 months from the establishment of a town on the public domain, will authorize the Bureau of Land Management to cause a survey and plat to be made thereof, the lots in which shall be disposed of at an increase of 50 per centum on the minimum price.

§ 255.15 *Minimum price of lots.* The minimum price for all lots is $10 per lot, except in cases where the survey into lots and blocks is made by the Government, in which case the minimum price is $15 per lot.

§ 255.16 *Preemption claims, publishing and posting of proof notices.* (a) A preemption right of purchase at the minimum price, at any time before the day fixed for the public sale, of not exceeding two lots, is accorded an actual resident, to secure which he must file in the land office his application therefor, and therein state the date of settlement, the value and character of his

[3] 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

improvements thereon, that he is 21 years of age or over or the head of a family, and that he is a citizen of the United States or has declared his intention to become such. The notice of intention to make proof must be filed by the applicant and the notice for publication must be issued, and posted by the manager, and published at the expense of the applicant once a week for 5 consecutive weeks, in accordance with § 106.14 of this chapter.

(b) All notices of intention to make proof of preemption claims pursuant to this section must be accompanied by a service charge of $5 which will not be returnable.

(c) Where a husband and wife are joint settlers, and the husband purchases two lots, as stated, the wife may also purchase an "additional lot" upon which she has placed substantial improvements.

§ 255.17 *Preemption proof.* Preemption proof may be made before the manager, or any officer duly authorized by law, and must show (a) due publication of the manager's notice, (b) the claimant's age, (c) his citizenship, in the manner required by Part 137 of this chapter, and (d) his actual residence upon one lot and substantial improvements on the second lot, if two lots be included in the application. The proof must embrace the testimony of the applicant and of at least two of his advertised witnesses. The purchase price for the lot or lots must be paid when the proof is made. Entry of public lands under other laws, or in other town sites, or ownership of more than 320 acres, will not disqualify an applicant from making such entry. No entry can be made of an improved lot on which the claimant does not reside unless his residence lot is included in the same or a previous entry.

§ 255.18 *Hearings.* Hearings will be ordered and conducted in accordance with the Rules of Practice, Part 221 of this chapter, where two or more adverse applications are filed for the same lot, or where a sufficient contest affidavit is filed against an application, on or before the day fixed for making proof, but no purchase money will be collected from the applicants until the final determination of the case, whereupon the successful applicant will be required to pay the purchase price within 30 days from notice thereof.

§ 255.19 *Conflicting mineral claims.* Mineral surveys, locations, applications, and entries covering lots in such town sites will not prevent the entry of such lots hereunder and the issuance of patent thereon, but such mineral claims, if held under prior and valid mineral rights, are amply protected by the law from prejudice by the allowance of such town-lot entries and patents, and paramount patents may be issued thereafter to such mineral claimants.

§ 255.20 *Lots wholly or partly covered by mineral patents.* Lots wholly covered by outstanding mineral patents are not subject to entry under the town site law, and applications therefor will be rejected. Lots partly covered by mineral patents may be entered at the price fixed for the whole lot, but the certificate and receipt must contain at the end of the description an exception clause as follows: Excepting and excluding the portion of said lot (or lots) embraced in mineral patent (or patents) heretofore issued.

§ 255.21 *Forfeiture of preemption right.* All right to preempt and purchase occupied and improved lots for which no entry has been allowed prior to or on the date fixed for the public sale will be forfeited unless a contest be pending thereon, and such lots will be offered for sale together with the unoccupied lots. When notified of the date fixed for the public sale, the manager will refuse to receive or consider any such application for entry where due publication could not be had and proof made thereon prior to the date so fixed for the public sale.

§ 255.22 *Conduct of sale; minimum sale price; private entry.* The public sale will be conducted in the form and manner provided for the sale of town lots under §§ 255.4 to 255.8. No lot shall be sold for less than the minimum price fixed therefor, and such lots as may not be disposed of at public sale shall thereafter be liable to further public sale or to private entry at such minimum, or at such reasonable increase or diminution as the authorized officer may order after at least 3 months' notice thereof, to be published in the FEDERAL REGISTER.

TOWN SITES ENTERED BY TRUSTEES

§ 255.26 *Statutory authority.* Public lands settled upon and occupied as a town site are thereby segregated from entry under the agricultural land laws, and may be entered under sections 2387 to 2389, Revised Statutes (43 U. S. C. 718–720), subject to the restrictions contained in sections 2386 and 2391 to 2393, inclusive, Revised Statutes (43 U. S. C. 717, 721–723).[1]

§ 255.27 *Who may make town-site entry.* If the town is incorporated, the entry must be made by the corporate authorities or by the mayor or other principal officer authorized so to do by resolution or ordinance of the town board or city council. If the town is not incorporated, the entry must be made by the judge of the county court upon petition addressed to him therefor, signed by such number of actual occupants of lots therein as may be required by the laws of the State in which the town is situated. Private individuals, organizations, or corporations are not authorized to make such entries.

§ 255.28 *Entry must be made in trust.* The entry must be made in trust (a) as to the occupied lots, for the several use and benefit of the occupants thereof according to their respective interests, and (b) as to the unoccupied lots, for the use and benefit of the municipality, the public, or the occupants collectively as a community. Such entries cannot be made for the benefit of one individual, or organization, or corporation, but only for the benefit of the actual inhabitants and occupants of an established town. Prospective town sites can not be so entered.

§ 255.29 *Execution of trust.* The execution of the trust as to the disposal of the lots and the proceeds of sales is to be conducted under regulations prescribed by the State laws. Acts of trustees not in accordance with such regulations are void.

§ 255.30 *Area that may be entered.* The amount of land that may be entered under sections 2387 to 2389 inclusive of the Revised Statutes (43 U. S. C. 718–720) is proportionate to the number of inhabitants. One hundred and less than 200 inhabitants may enter not to exceed 320 acres; 200 and less than 1,000 inhabitants may enter not to exceed 640 acres; and where the inhabitants number 1,000 and over, an amount not to exceed 1,280 acres may be entered; and for each additional 1,000 inhabitants, not to exceed 5,000 in all, a further amount of 320 acres may be allowed. When the number of inhabitants of a town is less than 100 the town site shall be restricted to the land actually occupied for town purposes, by legal subdivisions.

§ 255.31 *Entry of unsurveyed land; special survey therefor.* Unsurveyed public land upon which a town has been established may be entered under sections 2387 to 2389, inclusive, of the Revised Statutes (43 U. S. C. 718–720). In such case a special survey should be procured by application to the area cadastral engineering officer therefor, the cost of which survey will be paid out of the available appropriations for public surveys. When the plat of such survey is filed in the land office, application may

[1] Public land withdrawn by Executive Orders 6910 and 6964 of November 26, 1934 and February 5, 1935, respectively, is not subject to town-site settlement until such settlement has been authorized by classification. See Part 296 and §§ 297.11 and 297.12 of this chapter.

be made to enter the land described therein.

§ 255.32 *Declaratory statements.* Declaratory statements may be filed as the initiatory step for the entry of the land in all cases where the occupants are not ready to apply for entry, and should be so filed in order to protect their rights. The statement should be signed and filed by the officer entitled to make entry under the law, and should show the number of inhabitants, that the land is occupied for trade, business, and other town-site purposes, and the date when first so occupied, and declare the purpose of the occupants to enter it under the town-site laws. It should include only such lands as the town is entitled to enter by Government subdivisions where surveyed, and if not surveyed the land should be described so it may be easily identified.

§ 255.33 *Proof; posting and publication of proof notice.* The notice of intention to make proof must be filed and the notice for publication must be issued, published, and posted at the applicant's expense as in ordinary cases, and in manner and form and for the time provided in the act of March 3, 1879 (20 Stat. 472; 43 U. S. C. 251). The notice must be published once a week for five consecutive weeks, in accordance with § 106.14 of this chapter. The proof may be made before the manager or any officer duly authorized by law, and must show, by record or documentary evidence, where such evidence is usually required, and where not so required, by the testimony of at least two of the advertised witnesses, (a) due publication of the manager's notice; (b) if an incorporated town, proof of incorporation, which should be a certified copy of the order of incorporation, or, if by legislative enactment, a citation to such act; (c) certified record evidence of the election, qualification, and the authority of the officer making entry; (d) the number of town-site occupants and claimants on each occupied Government subdivision; (e) the number of inhabitants in the town site; (f) the character, extent, and value of town-site improvements located on each Government subdivision; and (g) the date when the land was first used for town-site purposes.

§ 255.34 *Area enterable.* Entry cannot be made hereunder of a greater quantity of land than 2,560 acres, unless the excess in area is actually settled upon, inhabited, improved, and used for business and municipal purposes.

§ 255.35 *Conflicting mineral claims.* Under sections 2386 and 2392 of the Revised Statutes (43 U. S. C. 717, 722), and section 16 of the act of March 3, 1891 (26 Stat. 1101; 43 U. S. C. 728), the title to lands acquired under sections 2387 to 2389, inclusive, of the Revised Statutes (43 U. S. C. 718–720) will be subject to all valid prior rights to unpatented mining claims or possessions held under existing law, and paramount patents may be issued thereafter to such mineral claimants, notwithstanding the prior town-site patent.

(b) All lands covered by patented minerals claims must be omitted from town-site entries. Government subdivisions of land, made fractional by the omission of such patented claims, will be designated by lot numbers on segregation diagram prepared by the area cadastral engineer.

§ 255.36 *Government reservations not subject to entry.* Reservations for the use of the United States Government are not subject to town-site entry.

§ 255.37 *Prior use and occupation of land as mill site.* The continued use and occupation within a town site of a duly located mill-site claim under section 2337, Revised Statutes (30 U. S. C. 42), from a time prior to a settlement and occupation thereof for town-site purposes, will defeat the rights of the claimant under the town-site laws to any part of the land within such mill site.

§ 255.38 *Railroad rights - of - way.* Railroad rights-of-way and station grounds, when approved by the Department of the Interior, are subject to all valid rights existing at the date of filing the application for such rights-of-way or station grounds.

§ 255.39 *Change in method of entering town site.* Where proceedings have been had for the entry of lots under sections 2382 to 2386, inclusive, of the Revised Statutes (43 U. S. C. 713–717) but no patent has issued thereunder, the occupants may avail themselves, if the town authorities choose to do so, of the provisions of said sections 2387 to 2389 Revised Statutes (43 U. S. C. 718–720) and make proof and entry thereunder: *Provided, however,* That in addition to the minimum price for the land applied for there shall be paid, before patent issues therefor, by the parties applying for such change of entry, all costs of surveying and platting such town site and expenses incident thereto incurred by the Government under the provisions of said sections 2382 to 2386. On application to the Bureau of Land Management the applicants will be informed of the amount of said expense to be paid in excess of the purchase price of the land, in order to effectuate such change of entry.

§ 255.40 *Additional entries of contiguous tracts.* Where town-site entry has been or may be made, under the provisions of sections 2387 to 2393 of the Revised Statutes (43 U. S. C. 718–723), additional entries may be made, under the provisions of section 4 of the act approved March 3, 1877 (19 Stat. 392; 43 U. S. C. 727), of such contiguous tracts as may be occupied for town-site purposes, but such additional entry shall not, together with all prior entries made for such town site, be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in section 2389, Revised Statutes: *Provided, however,* That such area shall not exceed 2,560 acres. Such additional entries will be made in the same manner and under the same regulations as are provided for entries under said sections 2387 to 2393, inclusive.

TOWN SITES IN RECLAMATION PROJECTS

§ 255.42 *Withdrawal and survey of land.* The Commissioner of Reclamation, with the concurrence of the Bureau of Land Management, may withdraw and reserve such lands for town site purposes, under the acts of April 16 and June 27, 1906 (34 Stat. 116, 519; 43 U. S. C. 434, 448, 561–563, 568, 594), as they may deem advisable. The Commissioner of Reclamation shall, when in his judgment the public interests require it, from time to time, cause not less than a legal subdivision, according to the official township surveys, of the lands so reserved to be surveyed into town lots, with appropriate reservations for public purposes. The plats and field notes of such surveys shall be prepared in triplicate for each town site, and shall be submitted for the approval of the Director, Bureau of Land Management.

§ 255.43 *Procedure governing appraisement and sale.* The Commissioner of Reclamation shall from time to time, with the concurrence of the appropriate officer of the Bureau of Land Management, authorize the appraisement and sale of lots in reclamation town sites. Notices of sale will be issued and other actions taken by those officers in accordance with the town site regulations contained in §§ 255.1 to 255.8.

§ 255.44 *Installment payments.* Under authority of section 2 of the act of June 11, 1910 (36 Stat. 466; 43 U. S. C. 565), the order for sale may authorize the payment of the purchase price of lots, sold in town sites created under the laws in said act mentioned, to be made in annual installments.

§ 255.45 *Reappraisement and sale of unsold lots.* The Commissioner of Reclamation, with the concurrence of the authorized officer of the Bureau of Land Management, may direct that unsold lots shall be reappraised under the first section of the said act of June 11, 1910 (36 Stat. 465; 43 U. S. C. 564). The lots to be reappraised will not, from the date of the order therefor, be subject to disposal until offered at public sale at the reappraised value.

§ 255.47 *Public reserves; patents therefor.* The public reservations in each town shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as a municipal corporation, said reservations shall be conveyed to such corporation in its corporate name, subject to the condition that they shall be used forever for public purposes. To secure such conveyances, the municipality shall apply through its proper officer for a patent to such reservations, and furnish proof in manner, form, and substance as required in § 255.49.

GRANT OF LANDS IN RECLAMATION TOWN SITES FOR SCHOOL PURPOSES

§ 255.48 *Application to be made by school district; action thereon.* (a) At any time after the approval of the survey of any Government reclamation town site and the subdivision thereof into town lots, with appropriate reservations for public purposes, a school district, in order to obtain title under the act of October 31, 1919 (41 Stat. 326; 43 U. S. C. 570), should file, through its proper officers, its application for patent to the unreserved, unappropriated, undisposed of lands it may desire, not exceeding 6 acres in area, therein, specifically describing the same by lot and block numbers, as delineated and designated on the approved town-site plat; submit sufficient and satisfactory reasons showing that the area applied for is needed for its use; that the land is unappropriated and subject to disposition under the act, in order that the Department of the Interior may be fully advised that there is no adverse claim for the land applied for; and therewith furnish the certificate of the superintendent of public instruction, or other officer performing such function, having jurisdiction over the county in which the town site is situate, showing that the district is a duly organized district under the laws of the State and entitled to hold real estate in its corporate name.

(b) The applicant must also procure and file with the application, at the time of the filing of the same or as early as practicable after the filing of such application, a statement by the official having charge of the project in which the land is located, showing that the disposal of the land applied for will not in any manner interfere with said project, such statement having been previously approved by the Commissioner of Reclamation.

(c) There is no limit to the number of applications which may be filed by a qualified school district, the only limitation being that the total acreage which may be patented to such a district shall not exceed 6 acres in area within any Government reclamation town site situated within such school district. Whenever, therefore, more than one application is filed by the same applicant, such applicant should refer by serial number, to all previous applications filed by it.

(d) The application and proof must be filed in the land office wherein the land applied for is situate, and if the manager thereof finds the same sufficient and if the Bureau of Reclamation makes favorable report upon the said application, the manger will issue certificate of entry, the same to provide that if any land so conveyed cease entirely to be used for school purposes title thereto shall revert to and revest in the United States.

PUBLIC RESERVES IN OKLAHOMA TOWN SITES

§ 255.49 *Applications for patents on behalf of the municipalities.* Applications for patents to the tracts reserved for public purposes, in all towns in Oklahoma created under section 22 of the act of May 2, 1890 (26 Stat. 91; 43 U. S. C. 1094), or under any other act where tracts have been reserved for such purposes under said section 22, may be filed on behalf of the municipalities whose corporate limits cover the land in which such reservations are situated. The application should be made by the mayor or other proper municipal officer and describe the reservations to be patented according to the approved plats of said town site, and the same should be accompanied with the proof of the municipal organization of the town, similar to that above provided for the disposition of the proceeds derived from the commutation of homestead entries for town-site purposes under said section 22, and proof must also be filed therewith of the authority of the officer filing the application to make the same with the proper record evidence of his election and qualification as such officer. The application and proof must be filed in the Bureau of Land Management and if the same is found sufficient, the certificate of entry will issue in the form provided therefor.

§ 255.50 *Disposal of unpatented public reserves in vacated town sites.* Under the act approved May 11, 1896 (29 Stat. 116; 43 U. S. C. 1119), where a town site or an addition to a town site in a homestead commuted to a town-site entry under the second proviso of section 22 of the act approved May 2, 1890 (26 Stat. 91; 43 U. S. C. 1094), has been vacated under the laws of Oklahoma and patents for the public reservations therein have not been issued, such reservations will be disposed of in the following manner:

(a) Application for a patent to such reservations may be filed by the original entryman within 6 months from the vacation of the town site, and proof must be filed by him, with the Bureau of Land Management of the due vacation of such town site in accordance with the requirements of the laws of Oklahoma, which proof must consist of a copy of the record evidence of such vacation, duly certified. Such proof must also be accompanied with evidence that the corporate authorities of the municipality, if one be organized, in which the reservations were situated prior to such vacation, have been personally served 30 days prior to making such proof with notice of the application and of the date the proof will be made. If the proof be found sufficient the entry will be allowed for the reservations as described in the town-site plat upon receipt of the payment of the homestead price. If the municipality is represented at the time of making proof, it may be heard in opposition to the application and decision be rendered thereon subject to appeal as in other cases.

(b) In case of the failure of the original entryman to apply for patent to such reservations within 6 months from the vacation of such town site, or in case such reserves have been patented to the municipality and it has ceased to exist by reason of such vacation, the reservations will be disposed of as isolated tracts under the provisions of section 2455, Revised Statutes (43 U. S. C. 1171), and the acts amendatory thereof, and the regulations issued thereunder.

§ 255.51 *Disposal of patented public reserves in vacated town sites.* Reservations may be sold by an existing municipal corporation, upon the vacation of the town site, where patent has been issued to such municipality therefor, the proceeds of such sale to be covered into the school fund of such corporation. (City of Enid, 30 L. D. 352.)

TOWN SITES ON MINERAL LANDS

§ 255.52 *Rights of mineral claimant; exclusion of mineral claim or mill site from town-site entry.* (a) The general town-site laws, comprised in sections 2380 to 2394, Revised Statutes (43 U. S. C. 711–724), authorize the entry of town sites, or the sale of lots therein, upon public lands which may include unpatented mineral claims, but the rights of mineral claimants upon any land entered or sold under said town-site laws are expressly protected by sections 2386 and 2392, Revised Statutes (43 U. S. C. 717, 722). These two sections recognize the superior rights, as against any town-site claimant—whether corporate, community, or individual—of all claimants for mineral veins possessed agreeably to local custom, or for any valid mining claim or possession held under existing law. The precedence and superiority so accorded to mineral claims, however, depend in final analysis upon the question of fact whether, at date of town-site entry or lot sale, the lands claimed under the mining laws were "known to contain minerals of such extent and value as to justify expenditures for the purpose of extracting them" (39 L. D. 356). Where an affirmative showing in such behalf is made in due course by the mineral claimant, his right to a patent for the land (subject to the distinction hereinafter noted as to incorporated towns), will not be prejudiced by any previous town-site entry, deed, or patent covering the same land (26 L. D. 144; 29 L. D. 426; 32 L. D. 211; 34 L. D. 276 and 596).

(b) Under said general town-site laws, as construed by the Department of the Interior and the courts, an entry including unpatented mineral lands may be made for an incorporated town as well as for an unincorporated town, the law requiring that in the former case the entry shall be made by the corporate authorities, and in the latter by the county judge (34 L. D. 24). While such general right of entry by or for incorporated towns and cities is therefore independent of anything contained in section 16 of the act of March 3, 1891 (26 Stat. 1101; 43 U. S. C. 728), it will be seen that that section in terms announces the right to enter mineral lands. The protection afforded to mineral claims by the body of section 16 is similar to that given generally in said sections 2386 and 2392, Revised Statutes, but the proviso to section 16 is as follows:

Provided, That no entry shall be made by such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.

(c) The Department of the Interior has never viewed said proviso as warranting, under any circumstances, the allowance of entry for a mineral vein independently of "the surface ground appertaining thereto," nor is such an entry provided for in the general mining laws. But said proviso creates one distinction between unincorporated and incorporated towns as regards the relative rights of town-site occupants and mineral claimants; which is, that whereas the town-site patent will, in either case, carry absolute title to any mineral not known to exist at the date of town-site entry, the adverse rights of mineral and town-lot claimants within incorporated towns are hinged upon priority of initiation. That is to say, that after entry is made for such town, no entry by a mineral-vein applicant will be allowed for any land owned and occupied under the town-site law by a party whose possession antedated the inception of the mineral applicant's claim, even though such land was known, at date of the town-site entry, to contain valuable minerals.

(d) Subject to the distinction above noted, the foregoing principles apply to all mineral-claims within town sites entered or disposed of under any of the laws above mentioned, and also to mineral claims within town sites disposable under special acts containing no reference to the rights of mining claimants.

(e) The law does not require that town-site entries shall exclude any mineral claim or possession except such as may have been patented (29 L. D. 21). Mineral claims which have not been patented may be excluded from a town-site entry at the option of the town-site applicant, who must, in that event, furnish satisfactory proof that the exclusion covers a "valid mining claim or possession held under existing law" (33 L. D. 542). The exclusion of a mill-site claim from a town-site entry is necessary only in cases where the mill-site claimant shall have been in occupation of the ground, under regular location, from a time antedating its occupation for town-site purposes. The issue of priority in such cases may be raised by the town-site applicant, the mill-site claimant, or the Government.

RIGHTS OF TRANSFEREES OF TOWN LOTS

§ 255.53 *Patent to issue in name of original purchaser.* The purchaser of a town lot, which is sold on the installment plan, may transfer his equitable interest in the lot, prior to the payment of the last installment of the purchase price, but the Government will not recognize anyone but the original purchaser and will issue all necessary papers and also the patent in his name. By such course, the Government is relieved of all unnecessary responsibility and the patent, when issued, inures to the benefit of the transferee.

QUALIFICATIONS OF TOWN-LOT PURCHASERS

§ 255.54 *Evidence of citizenship or incorporation required.* Unless otherwise provided by law, every person purchasing a town lot at public or private sale, under any law governing the sale and disposal of town sites on the public domain, will be required to furnish evidence that he is a citizen of the United States or has declared his intention to become such and every corporation purchasing a town lot will be required to furnish evidence, including a certified copy of its articles of incorporation, showing that it is a corporation organized under the laws of the United States or of any State, Territory, or possession thereof and that it is authorized to acquire and hold real estate in the State in which the town-site is situated. In view of the provisions of section 2 of the act of March 2, 1897 (29 Stat. 618; 8 U. S. C. 72), the foregoing requirement respecting the citizenship of individuals is not applicable to the Territory of Alaska.

This circular replaces Circulars 1525, 1742 and 1943

GPO 835-892

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2017]

PART 71—MINERAL LANDS; OIL AND GAS, PHOSPHATE AND OIL SHALE LEASES, AND POTASH AND SODIUM PERMITS AND LEASES

PART 192—OIL AND GAS LEASES

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

Miscellaneous Amendments

1. Section 71.1 is amended to eliminate from that section the reference to § 71.2 and to read as follows:

§ 71.1 Mineral leasing laws and regulations applicable in Alaska.

Subject to the provisions of § 71.3, the regulations under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181, et seq.), as amended and supplemented, including the Act of February 7, 1927 (44 Stat. 1057; 30 U.S.C. 281 et seq.), contained in Parts 191 and 192 and 194 to 197, inclusive, of this chapter, shall govern the issuance of oil and gas, phosphate and oil shale leases, and potash and sodium permits and leases, in Alaska.

(Sec. 32, 41 Stat. 450; 30 U.S.C. 189)

§ 71.2 [Revocation]

2. Section 71.2 is revoked.

3. Section 192.40 is amended to read as follows:

§ 192.40 Classes and term.

All lands subject to disposition under the act which are known or believed to contain oil or gas may be leased by the Secretary of the Interior. When within the known geologic structure of a producing oil or gas field, such land may be leased only by competitive bidding and in units of not exceeding 640 acres to the highest responsible qualified bidder at a royalty of not less than 12½ per cent. Leases for not to exceed 2,560 acres, except where the rule of approximation applies, entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width, may be issued for all other land subject to the act to the first qualified offeror at a royalty of 12½ per cent. All leases, except those issued as renewals of 20-year leases, will be issued for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities.

4. Paragraph (d) and paragraph (g) (1) (i) of § 192.42 are amended to read as follows:

§ 192.42 Offer to lease, and issuance of lease.

* * * * *

(d) Each offer must be filled in by typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for the benefit of a non-alien minor or minors but an offer may not be filed by a minor. An offer may not include more than 2,560 acres except where the rule of approximation applies. The lands in the offer must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. No offer may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or such a plan which has been approved as to form by the Director of the Geological Survey, or where the land is surrounded by lands not available for leasing under the act.

* * * * *

(g) (1) * * *

(i) The land description does not comply with the requirements of § 192.42a or the lands are not entirely within an area of six miles square or an area of six surveyed sections in length or width.

5. A new § 192.42a is added to read as follows:

§ 192.42a Description of lands in offer.

(a) If the lands have been surveyed under the public land rectangular system, each offer must describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each offer must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the U.S. Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

(b) In lease offers embracing unsurveyed public lands adjacent to tidal waters in southern Louisiana and in Alaska, if the offeror finds it impracticable to furnish a metes and bounds description, as required in paragraph (a) of this section with respect to the water boundary, he may, at his option, extend the boundary of his offer into the water a distance sufficient to permit complete enclosure of the water boundary of his offer by a series of courses and distances in cardinal directions (the object being to eliminate the necessity of describing the meanders of the water boundary of the public lands included in the offer). The description in the lease offer shall in all other respects conform to the requirements of paragraph (a) of this section. Such description would not be deemed for any purpose to describe the true water boundaries of the lease, such boundaries in all cases being the ordinary high water mark of the navigable waters. The land boundaries of such over-all area shall include only the public lands embraced in the offer. The offeror shall agree to pay rental on the

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full acreage included within the description with the understanding that rights under any lease to be issued on that offer will apply only to the areas within that description properly subject to lease under the act, but that the total area described will be considered as the lease acreage for purposes of rental payments, acreage limitations under § 192.3, and the maximum or minimum area to be included in a lease pursuant to § 192.42 (d). The tract should be shown in outline on a current quadrangle sheet published by the United States Geological Survey or such other map as will adequately identify the lands described.

(c) When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys.

(d) The descriptions in leases issued pursuant to offers filed after the effective date of this section will be conformed to the subdivisions of the approved protracted surveys if and when such surveys have been adopted for the area; and the description and acreage of leases issued pursuant to offers filed after the effective date of this section will be adjusted to the official public land surveys when such surveys have been extended over the leased area.

(Sec. 32, 41 Stat. 450; 30 U.S.C. 189)

6. Paragraph (a) of § 200.5 is amended to read as follows:

§ 200.5 Supplemental information required in offers and applications for leases and permits; place of filing.

(a) Each offer or application for a lease or permit must contain (1) a statement that applicant's interest, direct or indirect, in leases, permits, or applications for similar minerals does not exceed a maximum chargeable acreage permitted to be held for that mineral in federally owned acquired lands in the same State, and (2) a complete and accurate description of the lands for which a lease or permit is desired. If the lands have been surveyed under the rectangular system of public land surveys, and the description can be conformed to such survey system, the lands must be described by legal subdivision, section, township, and range. Where the description cannot be conformed to the public land survey, any boundaries which do not so conform must be described by metes and bounds, giving courses and distances between successive angle points with appropriate ties to established survey corners. If not so surveyed and if within the area of the public land surveys[1] the lands must be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected with an official corner of those surveys by courses and distances. If not so surveyed and the tract is not within the area of the public land survey,[1] it must be described in a manner consistent with the description in the deed under which it was acquired, amplified where the deed description does not supply them, to include the courses and distances between the successive angle points on the boundary of the tract, and adequately shown on a plat or map to permit its location within the administrative unit or project of which it is a part. In all cases the description should, if practicable, refer to (i) the administrative unit or project of which the land is a part, the purpose for which the land was acquired by the United States, and the name of the governmental body having jurisdiction over the land, (ii) the names of the persons who conveyed the lands to the United States, (iii) the date of such conveyance, and the place, liber and page number of its official recordation.

7. Paragraph (d) and paragraph (g) (1) (i) of § 200.8 are amended to read as follows:

§ 200.8 Offer to lease and issuance of lease.

* * * * * *

(d) Each offer must be filled in by typewriter or printed plainly in ink and signed in ink by the offerer or the offerer's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for the benefit of non-alien minors or incompetents. Offers may not be filed by minors or incompetents. Each offer must describe the lands as required by § 200.5(a). An offer may not include more than 2,560 acres except where the rule of approximation applies. The lands in the offer must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. If the offer is for lands in which the Government has only a future interest in the oil and gas, the offerer must file the additional showing required by § 200.7(b) and execute the supplemental agreement required by § 200.7(c).

* * * * * *

(g) (1) * * *

(i) The land description does not comply with the requirements of § 200.5(a) or the lands are not entirely within an area of six miles square or within an area of six surveyed sections in length or width.

FRED A. SEATON,
Secretary of the Interior.

MAY 16, 1959.

[F.R. Doc. 59-4302; Filed, May 21, 1959; 8:45 a.m.]

[1] Lands "within the area of the public land surveys" are those north and west of the Ohio and Mississippi Rivers (except Texas) and in the States of Mississippi, Alabama, Florida, and Alaska.

INT.DUP.,D.C.59- 55848

GPO 884420

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

(Circular No. 2018)

PART 257—SALE OR LEASE OF SMALL TRACTS

Drawing Procedure

1. The title to Part 257 is revised to read "Sale or Lease of Small Tracts."

2. Section 257.7 is revised to read as follows:

§ 257.7 Drawing procedures.

(a) Whenever offers in excess of the number of units available are submitted for lands classified for lease and sale or for sale, or when the conditions of § 257.1(a)(2) apply, a drawing or drawings will be held. The classification or other order will give all relevant information concerning the drawing.

(b) The classification or other order may require the filing of either "Multiple Applicant Entry Cards," Form 4-770, or "Single Drawing Cards," Form 4-770a, as the case may be, in lieu of Application Form 4-770. Any person who has the necessary qualifications may execute an official drawing entry card and have entered in the land office records. The entries should indicate the classification order or circular and serial number of the land for which the applicant applies. It should be noted that a separate entry card is required for each tract applied for. The applicant may submit his entry card in a sealed, self-addressed return envelope or may present it personally at the land office. Upon receipt of application Form 4-770, together with the required filing fee and service charge, see §§ 257.3 and 257.4.

(c) To qualify as a drawing, the entries must qualify under the regulations of this part and must comply with all requirements of the order and be on the proper form. If more than one entry card is received from any person for the same tract, only the first one will be considered. If more than one entry card is received from any person for more than one tract in any drawing, the applicant will be ineligible to participate in the drawing.

(Sec. 1, 50 Stat. 900, as amended; 43 U.S.C. 315a)

Fred W. Johnson,
Director, Bureau of Land Management.

May 23, 1958.

[F.R. Doc. 58-4497, Filed, May 28, 1958; 8:45 a.m.]

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full acreage included within the description with the understanding that rental under any lease to be issued on that offer will apply only to the areas within that description properly subject to lease under the act, but that the total area described will be considered as the lease acreage for purposes of rental payments, acreage limitations under § 191.4, and the maximum or minimum area to be included in a lease pursuant to § 193.42 (d). The tract should be shown in outline on a current quadrangle sheet published by the United States Geological Survey or such other map as will adequately identify the lands described.

(c) When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted survey.

(d) The descriptions in leases issued pursuant to offers filed after the effective date of this section will be conformed to the subdivisions of the approved protracted surveys if and when such surveys have been extended for the area; and the description and acreage of leases issued pursuant to offers filed after the effective date of this section will be adjusted to the official public land survey when such surveys have been extended over the leased area.

(Sec. 32, 41 Stat. 450; 30 U.S.C. 189)

6. Paragraph (a) of § 200.5 is amended to read as follows:

§ 200.5 Supplemental information required to be filed and applications for leases and permits; place of filing.

(a) Each offer or application for a lease or permit must contain (1) a statement that applicant's interest, direct or indirect, in leases, permits, or applications for similar minerals does not exceed a maximum chargeable acreage specified to be held for that mineral in federally owned acquired lands in the same state, and (2) a complete and accurate description of the lands for which a lease or permit is desired. If the lands have been surveyed under the rectangular system of public land surveys, and the description can be conformed to such survey system, the lands must be described by legal subdivision, section, township, and range. Where the description cannot be conformed to the public land survey, any boundaries which do not so conform must be described by metes and bounds, giving courses and distances between corners and a permanent monument or other natural object, if one be convenient, if not so surveyed and if within the area of the public land surveys[1] the lands must be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected with an official corner of those surveys by courses and distances. If not so surveyed and the tract is not within the area of the public land survey, it must be described in a manner consistent with the description in the deed under which it was acquired, amplified where the deed description does not supply data, as by the courses and distances between successive angle points on the boundary of the area, and adequately shown on a plat to enable persons to locate exactly the admeasurements or portion of which it is a part. The description should refer to (i) the administrative unit or project of which the land is a part, the purpose for which the land was acquired by the United States, and the name of the governmental body having jurisdiction over the land, (ii) the names of the persons who conveyed the lands to the United States, (iii) the date of each conveyance, and the place (liber and page number of the official recordation).

7. Paragraph (d) and paragraph (g) (1) (i) of § 200.6 are amended to read as follows:

§ 200.6 Offer to lease and issuance of lease.

* * * * *

(d) Each offer must be filed in by typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in the name for the benefit of [illegible] minors or incompetents. Offers may not be filed by minors or incompetents. Each offer must describe the lands as required by § 200.5(a). An offer may not include more than 2,560 acres except where the rule of approximation applies. The lands in the offer must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. If the offer is for lands in which the Government has only a future interest in the oil and gas, the offeror must file the additional showing required by § 200.5(b) and execute the supplemental agreement required by § 200.7(c).

* * * * *

(g) (1) * * *

(i) The land description does not comply with the requirements of § 200.5(a) or the lands are not entirely within an area of six miles square or within an area of six surveyed sections in length or width.

FRED A. SEATON,
Secretary of the Interior.

MAY 18, 1959.

[F.R. Doc. 59-4268, Filed, May 21, 1959; 8:45 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 2018]

PART 257—SALE OR LEASE OF SMALL TRACTS

Drawing Procedure

1. The title to Part 257 is revised to read "Sale or Lease of Small Tracts."

2. Section 257.7 is revised to read as follows:

§ 257.7 Drawing procedure.

(a) Whenever filings in excess of the number of tracts available are anticipated for lands classified for lease and sale or for lease, or when the conditions of § 257.18(c)(2) apply, a drawing or drawings will be held. The classification or other order will give all relevant information concerning the drawing.

(b) The classification or other order may require the filing of either "Veterans' Drawing Entry Cards," Form 4–775, or "Special Drawing Cards," Form 4–775b, as the case may be, in lieu of Application Form 4–776. Any person who has the necessary qualifications may obtain an official drawing entry card upon request to the land office manager. The request should designate the classification order by number and whether or not the person has veterans' priority rights. It should be accompanied by a stamped, self-addressed return envelope. Each successful entrant in a drawing will be furnished in duplicate Form 4–776, bearing the description of the tract allocated to him. The forms must be completely filled out, signed and returned, accompanied by the proper rental and fees within the time allowed by the authorized officer of the Bureau of Land Management. Where an entrant for any reason fails to comply with the requirements within the time allowed, the tract will become available to the alternate next in line in the drawing.

(c) The classification or other order may require the filing of a stamped, self-addressed return envelope and a sealed envelope containing properly executed copies of application Form 4–776, together with the required filing fees and advance payments (see §§ 257.8 and 257.9).

(d) To qualify for a tract, the entrant must qualify under the regulations of this part and must comply with all instruction in the order and on the entry card, when entry cards are required. If any entrant files more than one entry card or applies for more than one tract in any drawing, the entrant shall be ineligible to participate in the drawing.

(Sec. 1, 52 Stat. 609, as amended; 43 U.S.C. 682a)

FRED A. SEATON,
Secretary of the Interior.

MAY 23, 1959.

[F.R. Doc. 59-4497; Filed, May 28, 1959; 8:45 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L – MINERAL LANDS

[Cir. No. 2019]

PART 192—OIL AND GAS LEASES

Assignments or Transfers

Section 192.140 is amended to read as follows:

§ 192.140 Assignments or transfers of leases or interests therein.

Leases may be assigned or subleased as to all or part of the leased acreage and as to either a divided or undivided interest therein to any person or persons qualified to hold a lease. The assignment or sublease must be accompanied by a signed statement by the assignee or sublessee that he is the sole party in interest in the assignment or sublease; if not, he shall set forth the names and the nature and extent of the interest therein of the other interested parties, the nature of the agreement between them, if oral, and a copy of such agreement, if written. Such statement must be signed by all of the interested parties including the assignee or sublessee, and all interested parties must furnish evidence of their qualifications to hold such lease interests. Such statement must be filed not later than 15 days after the filing of the assignment or sublease. Subject to final approval by the Bureau of Land Management, assignments or subleases shall take effect as of the first day of the lease month following the date of filing in the proper land office of all the papers required by §§ 192.141 and 192.142. No assignment will be approved if the assignee or sublessee is not qualified to take and hold a lease or if his bond is insufficient or if he fails to file the statement required by this section. A minor, except a minor heir or devisee of a lessee, is not qualified to hold a lease and an assignment to a minor will not be approved. An assignment of a separate zone or deposit or of a part of a legal subdivision will not be approved unless the necessity therefor is established by clear and convincing evidence.

FRED A. SEATON,
Secretary of the Interior.

JUNE 1, 1959.

[F.R. Doc. 59-4709; Filed, June 5, 1959; 8:47 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2020]

PART 76—STATE GRANTS

The title to Part 76 is revised to read as set forth above and the text of Part 76 is revised to read as follows:

GRANT TO ALASKA FOR COMMUNITY PURPOSES

Sec.

76.1 Statutory authority.
76.2 Applicable regulations.
76.3 Approval of selections outside of national forests.
76.4 Statutory authority.
76.5 Applications for selection.
76.6 Statement with application.
76.7 Statutory authority.
76.8 Lands subject to selection; patents; minerals.
76.9 Applications for selection.
76.10 Effect of approval of selections.
76.11 Statutory authority.
76.12 Lands subject to selection; patents; minerals.
76.13 Applications for selection.
76.14 Effect of approval of selections.
76.15 State preference right of selection; waivers.
76.16 Segregative effect of applications.
76.17 Publication and protests.
76.18 Appeals.

AUTHORITY: §§ 76.1 to 76.18 issued under R.S. 2478; 43 U.S.C. 1201.

§ 76.1 Statutory authority.

The act of July 7, 1958 (72 Stat. 339, 340), grants to the State of Alaska the right to select, within 25 years after January 3, 1959, not to exceed 400,000 acres of national forest lands in Alaska which are vacant and unappropriated at the time of their selection and not to exceed 400,000 acres of other public lands in Alaska which are vacant, unappropriated, and unreserved at the time of their selection. The act provides that the selected lands must be adjacent to the established communities or suitable for prospective community centers and recreational areas. The act further provides that such lands shall be selected with the approval of the Secretary of Agriculture as to national forest lands and with the approval of the Secretary of the Interior as to other lands, and that no selection shall be made north and west of the line described in section 10 of the act without approval of the President or his designated representative.

§ 76.2 Applicable regulations.

Unless otherwise indicated therein, the regulations in §§ 76.11–76.18 apply to the grant and selection of lands for community purposes. In addition to the requirements of § 76.13, where the selected lands are national forest, the application for selection must be accompanied by a statement of the Secretary of Agriculture or his delegate showing that he approves the selection.

§ 76.3 Approval of selections outside of national forests.

Selection of lands outside of national forests will be approved by the authorized officer of the Bureau of Land Management if, all else being regular, he finds that approval of a selection of lands adjacent to an established community will further expansion of an established community, or if the lands are suitable for prospective community centers and recreational areas.

GRANT TO ALASKA FOR UNIVERSITY OF ALASKA

§ 76.4 Statutory authority.

The act of January 21, 1929 (45 Stat. 1091), as supplemented July 7, 1958 (72 Stat. 339, 343; 48 U.S.C. 354a), grants to the State of Alaska, for the exclusive use and benefit of the University of Alaska, the unsatisfied portion of 100,000 acres of vacant, surveyed, unreserved public lands in said State, to be selected by the State, under the direction and subject to the approval of the Secretary of the Interior, and subject to the conditions and limitations expressed in the act.

§ 76.5 Applications for selection.[1]

(a) Applications to select lands under the grant made to Alaska by the act of January 21, 1929, will be made by the proper selecting agent of the State and will be filed in the land office of the district in which such selected lands are situated. Such selections must be made in accordance with the law and with the applicable regulations governing selection of lands by States as set forth in Part 270 of this chapter and under this part.

(b) Notice of selection and publication is required as provided by §§ 76.16–76.17.

(c) Each list of selections must contain a reference to the act under which the selections are made and must be accompanied by a certificate of the selecting agent showing the selections are made under and pursuant to the laws of the State of Alaska.

(d) The selections in any one list must not exceed 6,400 acres.

(e) Each list must be accompanied by a certification of the selecting agent stating that the acreage selected together with the cumulative acreage total of all prior selection lists pending and finally approved for clear-listing or patenting does not exceed 100,000 acres.

§ 76.6 Statement with application.

Every application for selection under the act of January 21, 1929, must be accompanied by a duly corroborated statement making the following showing as to the lands sought to be selected.

(a) That no portion of the land is occupied for any purpose by the United States and that to the best of his knowledge and belief the land is unoccupied, unimproved, and unappropriated by any person claiming the same other than the applicant; and that at the date of the application no part of the land was claimed under the mining laws.

(b) That the land applied for does not extend more than 160 rods along the shore of any navigable water or that such restriction has been or should be waived. (See § 77.4(b) of this chapter.)

(c) All facts relative to medicinal or hot springs or other waters upon the lands must be stated.

GRANT TO ALASKA FOR MENTAL HEALTH PROGRAM

§ 76.7 Statutory authority.

The act of July 28, 1956 (70 Stat. 709, 711, 712), as supplemented July 7, 1958 (72 Stat. 339; 343; 48 U.S.C. 46–3), referred to in §§ 76.7 to 76.10 as "the act," grants to the State of Alaska the right to select, within 10 years from July 28, 1956, not to exceed the unsatisfied portion of one million acres from the public lands in Alaska which are vacant, unap-

[1] 18 U.S.C. 1001 makes it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

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propriated, and unreserved at the time of selection.

§ 76.8 Lands subject to selection; patents; minerals.

(a) Under the act, the State may select any vacant, unappropriated, and unreserved public lands in Alaska, whether or not they are surveyed and whether or not they contain mineral deposits, except that no lands may be selected that lie north and west of the line described in section 10 of the act without approval of the President or his designated representative. Where the preference provisions of § 76.15(a) do not apply, selections by the State of lands covered by an application filed prior to the State selection will be rejected when and if such application is allowed. Conflicting applications and offers for mineral leases, and permits, except for preference right applications filed pursuant to the mineral leasing acts and the regulations of this chapter, whether filed simultaneously with or prior or subsequent to the filing of a selection of this part, will be rejected if such selection is approved by the authorized officer of the Bureau of Land Management for survey, if applicable, and patenting.

(b) Patents will be issued for all selections approved under the act by the authorized officer of the Bureau of Land Management but such patents will not issue unless or until the lands are officially surveyed.

(c) Patents issued under the act will convey to the State all mineral deposits in the selected lands.

§ 76.9 Applications for selection.[1]

(a) Applications for selection of lands under the act will be made by the proper selecting agent of the State and will be filed, in duplicate, in the land office of the district in which such selected lands are situated. No special form is required but it must be typewritten and must contain the following information:

(1) A reference to the act of July 28, 1956 (70 Stat. 709), as supplemented.

(2) A certificate by the selecting agent showing:

(i) That the selection is made under and pursuant to the laws of the State.

(ii) The acreage selected and the cumulative acreage of all prior selection lists pending and finally approved for clear-listing or patenting.

(iii) His official title and his authority to make the selection on behalf of the State.

(iv) That no portion of the selected land is occupied for any purpose by the United States and that to the best of his knowledge and belief the land is unoccupied, unimproved, and unappropriated by any person claiming the land other than the applicant, and that at the date of the application no part of the land was claimed or occupied under the mining laws.

(v) That the selected land does not extend more than 160 rods along the shore of any navigable water or that such restriction has been waived or should be waived. (See § 77.4(b) of this chapter.)

(vi) All the facts relative to medicinal or hot springs or other waters upon the selected lands.

(3) If the selected lands are surveyed, the legal description of the lands in accordance with official plats of survey.

(4) If the selected lands are unsurveyed and are described by approved protraction diagrams of the rectangular system of surveys, such description is required.

(5) If the selected lands are unsurveyed and are not described by approved protraction diagrams, a description of the lands and a map or maps, in duplicate, sufficient to permit ready identification of the location, boundaries, and area of the lands.

(b) Selections must be accompanied by a filing fee of $10 for each 5,760 acres or fraction thereof in the selection which fee is not returnable.

(c) All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved. A tract will not be considered compact if it excludes other public lands available for selection within its exterior boundaries.

(d) Segregation, publication. See §§ 76.16 and 76.17.

§ 76.10 Effect of approval of selections.

Following the selection of lands by the State pursuant to the requirements of § 76.9, the State shall be authorized to lease and make conditional sales of such selected lands pending survey of the lands, if necessary, and issuance of patent.

GRANT TO ALASKA FOR GENERAL PURPOSES

§ 76.11 Statutory authority.

(a) The act of July 7, 1958 (72 Stat. 339–343), referred to in §§ 76.11–76.14 as "the act," grants to the State of Alaska the right to select, within 25 years from January 3, 1959, not to exceed 102,550,000 acres from the public lands in Alaska which are vacant, unappropriated and unreserved at the time of selection.

(b) The act further provides that no selection shall be made in the area north and west of the line described in section 10 thereof (72 Stat. 345) without the approval of the President or his designated representative.

§ 76.12 Lands subject to selection; patents; minerals.

(a) The act provides that any lease, permit, license, or contract issued under the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181 et seq.) as amended, or under the Alaska Coal Leasing Act of 1914 (38 Stat. 741; 30 U.S.C. 432 et seq.), as amended, referred to in this section as "the mineral leasing acts," shall have the effect of withdrawing the lands subject thereto from selection by the State, unless such lease, permit, license, or contract was in effect on July 7, 1958, and unless the State files an application to select such lands within a period of five years after January 3, 1959. Selections of such areas must include the entire area that is subject to each lease, permit, license, or contract.

(b) Under the act, the State may select any vacant, unappropriated, and unreserved public lands in Alaska, whether or not they are surveyed and whether or not they contain mineral deposits. For the purposes of selection, leases, permits, licenses, and contracts issued under the mineral leasing acts of 1914 and 1920 will not be considered an appropriation of lands if the selection conforms to the requirements of paragraph (a) of this section. Where the preference provisions of § 76.15(a) do not apply, selections by the State of lands covered by an application filed prior to the State selection will be rejected to the extent of the conflict when and if such application is allowed. Conflicting applications and offers for mineral leases and permits, except for preference right applicants, filed pursuant to the Mineral Leasing Act, whether filed prior to, simultaneously with, or after the filing of a selection under this part will be rejected when and if the selection is tentatively approved by the authorized officer of the Bureau of Land Management in accordance with § 76.14.

(c) Patents will be issued for all selections approved under the act by the authorized officer of the Bureau of Land Management but such patents will not issue unless or until the exterior boundaries of the selected area are officially surveyed.

(d) Patents issued under the act will convey to the State all mineral deposits in the selected lands. Any patent for lands subject to a lease, permit, license, or contract issued under the mineral leasing acts of 1914 and 1920 shall vest in the State all right, title, and interest of the United States in and to any such lease, permit, license, or contract that remains outstanding on the effective date of the patent, including the right to all rentals, royalties, and other payments accruing after that date under such lease, permit, license, or contract, and including any authority that may have been retained by the United States to modify the terms and conditions of such lease, permit, license, or contract. Issuance of patent will not affect the continued validity of any such lease, permit, license, or contract or any rights arising thereunder.

§ 76.13 Applications for selection.[1]

(a) Applications for selection under the act must conform with the requirements of paragraphs of § 76.9 (a) and

(b) with the following modifications of § 76.9(a):

(1) Section 76.9(a)(1) is modified to require a reference to the act of July 7, 1958 (72 Stat. 709).

(2) Section 76.9(a)(2)(ii) is modified to require a statement that the selection, together with other selections under the act pending or approved, does not exceed 102,550,000 acres (400,000 acres where one of the grants for community purposes is involved).

(b) All selections shall be made in reasonably compact tracts, taking into account the situation and potential uses of the lands involved. A tract will not be considered compact if it excludes other public lands available for selection within its exterior boundary. Each tract selected shall contain at least 5,760 acres unless isolated from other tracts open to selection.

(c) If the selected lands are in the area north and west of the line described in section 10 of the act, all selection made or confirmed by the act must be accompanied by a statement of the President or his designated representative showing that he approves the selection.

(d) Lands selected must be described as provided by § 76.9.

§ 76.14 Effect of approval of selections.

Following the selection of lands by the State and the tentative approval of such selection by the authorized officer of the Bureau of Land Management, the State is authorized to execute conditional leases and to make conditional sales of such selected lands pending survey of the exterior boundaries of the selected area, if necessary, and issuance of patent. Said officer will notify the appropriate State official in writing of his tentative approval of a selection after determining that there is no bar to passing legal title to the lands to the State other than the need for the survey of the lands or for the issuance of patent or both.

§ 76.15 State preference right of selection; waivers.

(a) The acts of July 28, 1956 (see § 76.7), and July 7, 1958 (see § 76.11), provide that upon the revocation of any order of withdrawal in Alaska, the order of revocation shall provide for a period of not less than 90 days before the date on which it otherwise becomes effective during which period the State of Alaska shall have a preferred right of selection under the acts of 1956 and 1958, except as against prior existing valid rights, equitable claims subject to allowance and confirmation, and other preferred rights of application conferred by law other than the preferred right of application created by section 4 of the act of September 27, 1944 (58 Stat. 748; 43 U.S.C. 282), as amended.

(b) Where the proper selecting agent of the State files in writing in the appropriate land office a waiver of the preference provisions of paragraph (a) of this section in connection with the proposed revocation of an order of withdrawal, the order affecting such revocation will not provide for such preference.

§ 76.16 Segregative effect of applications.

Lands desired by the State under the regulations of this part will be segregated from all appropriations based upon application or settlement and location, including locations under the mining laws, when the State files its application for selection in the appropriate land office properly describing the lands as provided in § 76.9(a) (3), (4), and (5). Such segregation will automatically terminate unless the State publishes first notice as provided by § 76.17 within 60 days of service of such notice by the appropriate officer of the Bureau of Land Management.

§ 76.17 Publication and protests.

(a) The State will be required to publish once a week for five consecutive weeks in accordance with § 106.14 of this chapter, at its own expense, in a designated newspaper, and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of patent or certification for lands selected under the regulations of this part. A protestant must serve on the State a copy of the objections and furnish evidence of service to the appropriate land office.

(b) The State must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

§ 76.18 Appeals.

An appeal pursuant to the Rules of Practice, Part 221 of this chapter, may be taken from the decision under the regulations of this part of the authorized officer of the Bureau of Land Management.

FRED A. SEATON,
Secretary of the Interior.

JUNE 3, 1959.

[F.R. Doc. 59-4740; Filed, June 8, 1959; 8:46 a.m.]

This Circular replaces Circular 1994

GPO 877310

Repl by C-2111

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

[Circular 2021]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Miscellaneous Amendments

1. Section 115.16 is amended by adding a new paragraph (f) to read as follows:

§ 115.16 Definitions.

* * * * *

(f) "Set-aside" means a designation of timber for sale which is limited to bidding by small business concerns as defined by the Small Business Administration in its regulations (13 CFR Part 121) under the authority of section 15 of the Small Business Act of July 18, 1958 (72 Stat. 384).

2. Section 115.17 is amended to read as follows:

§ 115.17 Annual timber sale plan.

Plans for the sale of timber from the O. and C. lands will be developed annually. Suggestions from prospective purchasers of such timber may be received to assist in the development of a sound annual timber sale plan. Such plan shall be advertised in a newspaper of general circulation in the area in which the timber is located. Such advertisement shall indicate generally the probable time when the various tracts of timber included in the plan will be offered for sale, set-asides if any, and the probable location and anticipated volumes of such tracts. The authorized officer may subsequently change, alter or amend the annual timber sale plan.

3. Paragraph (b) of § 115.18 is amended to read as follows:

§ 115.18 Advertising.

* * * * *

(b) The advertisement of sale shall state the location by legal description of the tract or tracts on which timber is being offered, the species, estimated quantities, the unit of measurement, appraised values, time and place for receiving and opening of bids, minimum deposit required, the access situation, the method of bidding, which tracts of timber if any have been designated as set-asides, the office where additional information may be obtained, and such additional information as the authorized officer may deem necessary.

4. Section 115.22 is amended to read as follows:

§ 115.22 Qualifications of bidders.

A bidder for the sale of timber must be (a) an individual who is a citizen of the United States, (b) a partnership composed wholly of such citizens, (c) an unincorporated association composed wholly of such citizens, or (d) a corporation authorized to transact business in the State of Oregon. A bidder must also have submitted a deposit in advance of sale as required by § 115.23. To purchase set-aside timber, the bidder must accompany his deposit with a self-certification statement that he is qualified as a small business concern as defined by the Small Business Administration in its regulations (13 CFR Part 121).

5. In § 115.24 the present paragraphs (c) and (d) are redesignated as paragraphs (d) and (e) and a new paragraph (c) is added as follows:

§ 115.24 Conduct of sales.

* * * * *

(c) Only bids of small business concerns which have filed a self-certification statement as required by § 115.22, may be considered for sales subject to set-asides. When no such bids are received, the timber may be sold under paragraph (e) of this section in the same manner as timber not previously made subject to a set-aside. When timber subject to a set-aside is not sold for any other reason, the sale may be rescheduled for a set-aside sale.

FRED A. SEATON,
Secretary of the Interior.

SEPTEMBER 3, 1959.

[F.R. Doc. 59-7554; Filed, Sept. 10, 1959; 8:47 a.m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

(Circular 2022)

PART 195—SODIUM PERMITS AND LEASES: USE PERMITS

GENERAL

Sec.
195.1 Statutory authority.
195.2 Definitions.
195.3 Area and limitation on holdings.
195.4 Qualifications of applicant.
195.5 Protection of pre-existing mining claims.
195.6 Permits and leases for lands disposed of with reservation of sodium.
195.7 Requirements when lands are within a withdrawal.

SODIUM PROSPECTING PERMITS

195.8 Application for permit.
195.9 Rights conferred.
195.10 Permit bond.
195.11 Cancelled permits.
195.12 Reward for discovery.
195.13 Expiration of permit.

SODIUM LEASES

195.14 Form of lease.
195.15 Lease bond.
195.16 Minimum production.
195.17 Application for lease by competitive bidding.
195.18 Notice of lease offer.
195.19 Bid deposits.
195.20 Award of lease.
195.21 Renewal leases.
195.22 Relinquishment of lease.
195.23 Cancellation of lease.

TRANSFERS OF PERMITS AND LEASES

195.24 Transfers, including subleases.
195.25 Overriding royalties.

USE PERMITS

195.26 Use permits for additional lands.

AUTHORITY: §§ 195.1 to 195.26 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189. Interpret or apply secs. 23–25, 41 Stat. 447, 45 Stat. 1019; 30 U. S. C. 261–263.

GENERAL

§ 195.1 *Statutory authority.* Sections 23 through 25 of the Act of February 25, 1920 (41 Stat. 447; 30 U. S. C. Sec. 261–3) hereinafter called the Mineral Leasing Act, authorize the Secretary of the Interior to:

(a) Issue permits to prospect for deposits of chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium in public lands or in public lands disposed of with a reservation of such deposits to the United States;

(b) Lease such lands containing valuable deposits of such substances, and

(c) Grant to a permittee or lessee of such lands the right to use unoccupied nonmineral public land not exceeding forty acres in area for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease.

§ 195.2 *Definitions.* The following terms, as used in this part, or in any lease or permit approved under the regulations in this part, shall have the meanings here given:

(a) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(b) *Director.* The Director of the Bureau of Land Management or any person duly authorized to exercise the powers vested in that officer.

(c) *Land office, or appropriate land office.* The land office of the Bureau of Land Management for the State part of State or Territory in which the lands covered by a permit, lease, or application therefor, are situated; and as to States for which there is no land office, the Bureau of Land Management, Washington 25, D. C.[1]

(d) *Manager or Land Office Manager.* The manager of the appropriate land office as defined in paragraph (c) of this section, and, as to the Washington, D. C. office, the Supervisor, Eastern States Office, Bureau of Land Management.

(e) *Mining Supervisor.* The Regional Mining Supervisor of the Geological Survey for the region in which the lands under permit or lease are situated.

§ 195.3 *Area and limitation on holdings.* Except where the rule of approximation applies, a lease or permit may not include over 2,560 acres in compact form entirely within a six-mile square. No person, association or corporation may hold at any one time more than 5,120 acres in any one State, except as hereinafter stated, whether directly through ownership of sodium permits and leases, or of interests in them, or indirectly through association membership or stock ownership. Where necessary in order to secure the economic mining of leasable sodium compounds, a person, association, or corporation may be permitted to hold up to 15,360 acres in any one State.

§ 195.4 *Qualifications of applicant.* (a) As used in this section, "applicant" means an applicant for a permit under § 195.8, for a lease under § 195.12, the successful bidder to whom a lease is awarded under § 195.20, or an assignee or transferee under § 195.24.

(b) Permits and leases may be issued to citizens of the United States, associations of citizens, and corporations organized under the laws of the United States or of any State or Territory thereof.

(c) All applicants must file in the appropriate land office statements and evidence as follows (unless previously filed, in which event a reference by serial number to the record and the land office in which filed, together with a statement as to any amendments, will be accepted):

(1) As to citizenship, whether native born or naturalized.

(2) If applicant is an association (including a partnership), it must submit a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(3) A corporation must submit a statement showing:

(i) The State in which it is incorporated.

(ii) That it is authorized to hold leases or permits for sodium deposits, and that the person executing an instrument on behalf of the corporation is authorized to act in such matters.

(iii) The percentage of voting stock and of all the stock owned by aliens for those having adresses outside of the United States. When the stock owned by aliens is over 10 percent, additional information may be required.

(iv) The name, address, citizenship, and acreage holdings of any stockholder owning or controlling 20 percent or more of the stock of any class of the corporation.

(4) That holdings do not exceed the acreage limitations specified in § 195.3.

[1] The land office for North and South Dakota is at Billings, Montana; for Nebraska and Kansas, at Cheyenne, Wyoming; and for Oklahoma, at Santa Fe, New Mexico.

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§ 195.5 *Protection of pre-existing mining claims.* Mining claims for deposits described in § 195.1 (a) which were valid on February 25, 1920, or on lands in San Bernardino County, California, on December 11, 1928, if duly maintained, may be patented under the law under which they were initiated. Otherwise, such deposits may be secured only under the Mineral Leasing Act.

§ 195.6 *Permits and leases for lands disposed of with reservation of sodium.* Where lands included in a permit or lease have been disposed of with reservation of sodium deposits, a permittee or lessee must make full compliance with the law under which such reservation was made. See the Acts of July 17, 1914 (38 Stat. 509; 30 U. S. C. 121–123); December 29, 1916 (39 Stat. 862; 43 U. S. C. 291–301); June 17, 1949 (63 Stat. 201); June 21, 1949 (63 Stat. 215; 30 U. S. C. 54) and August 13, 1954 (68 Stat. 708), and other laws authorizing such reservations.

§ 195.7 *Requirements when lands are within a withdrawal.* Where any part of the lands embraced in an application for sodium permit or lease is within a withdrawal which does not preclude disposition of the sodium deposits, the head of the Government agency having control will be called upon for a report as to whether there is any objection to the granting of a sodium permit or lease. Where he recommends that a special stipulation be required to protect the interests of the United States, an appropriate stipulation may be included in the lease or permit.

SODIUM PROSPECTING PERMITS

§ 195.8 *Application for permit.* An application for a permit must be filed in duplicate in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany the application. No specific form of application is required, but the application should include the information and evidence called for in §§ 195.4 and 195.17 (a) (1) and (2).

§ 195.9 *Rights conferred.* Two-year permits issued on Form 4–466 [2] grant the permittee the exclusive right to prospect and explore the lands described therein to determine the existence of or workability of the sodium deposits. Only such material may be removed from the land as is necessary to experimental work or the demonstration of the existence of such deposits in commercial quantities.

§ 195.10 *Permit bond.* Prior to the issuance of a permit for lands entered or patented with a reservation of the sodium deposits to the United States, or lands within a reclamation project, the applicant must furnish a bond of not less than $1,000, with approved corporate surety (Form 4–1130), or his personal bond in similar amount (Form 4–1131) secured by negotiable Federal securities in the amount of the bond. The right is reserved to require the applicant, in any case where deemed necessary, to furnish a permit bond.

§ 195.11 *Cancelled permits.* Upon cancellation of a sodium permit for any reason, the land will not be open to sodium permit applications until the cancellation is noted on the records of the land office.

§ 195.12 *Reward for discovery.* (a) A permittee who discovers valuable sodium deposits in the land before the permit expires is entitled to a preference right lease of all or part of the lands in the permit, in a reasonably compact form as provided in § 195.3. An application for a preference right lease must be filed in duplicate in the appropriate land office not later than 30 days after the permit expires. The application must describe the lands desired, show any change in the information contained in the application for permit, specify fully the extent and mode of occurrence of the deposits as disclosed by the prospecting work, and show that valuable sodium deposits were discovered before the permit expired. The application should be accompanied by the rental for the first year of the lease, at the rate of 25 cents per acre or fraction thereof. The lease will be on Form 4–1134, and will be dated the first day of the month following the date of the decision notifying the applicant that he is entitled to a preference right lease, unless otherwise specified therein. If the permit expires and the application for lease is finally rejected, royalty for the deposits mined will be charged at the permit rate and such mining will not constitute a trespass.

(b) If the lands are unsurveyed, the permittee, prior to the issuance of a lease, will be required to deposit with the appropriate State Supervisor the estimated cost of making a survey of the lands as officially determined by the Bureau of Land Management. This survey will be an extension of the public land surveys over the lands applied for, and the lands to be included in the lease will be conformed to the subdivisions of such survey.

(c) If the permittee dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed; if probate has been completed, or is not required, to the heirs or devisees; and if there are minor heirs or devisees, to their legal guardian or trustee in his name, provided there is filed in all cases the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person, who as executor or administrator submits forms of lease and bond, has authority to act in that capacity and to sign such forms.

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased permittee and are the only heirs or devisees of the deceased.

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings similar to that required by § 195.4 (c) (1) and (4).

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the permittee and citing the provisions of the law of the deceased's last domicile showing no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 195.4 (c) (1) and (4), except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(3) Where there is a legal guardian or trustee:

(i) A certified copy of the court order authorizing the guardian or trustee to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; statements by the guardian or trustee as to the citizenship and holdings of each of the minors and as to his own citizenship and holdings, including his holdings for the benefit of other minors similar to that required by § 195.4 (c) (1) and (4).

§ 195.13 *Expiration of permit.* Unless a lease application is filed pursuant

[2] A copy of this, as well as of every other form mentioned in this part, may be obtained from any land office or from the Director, Bureau of Land Management, Washington 25, D. C. Copies of Forms 4–466, 4–1134 and 4–1135 were filed with the Federal Register Division as part of the original document.

to § 195.12, the permit will expire at the end of its period without notice to permittee. No extension of the term will be granted.

SODIUM LEASES

§ 195.14 *Form of lease.* Leases shall be issued on Form 4–1134.

§ 195.15 *Lease bond.* A compliance bond, in no event less than $5,000, with approved corporate surety (Form 4–1113), or the lessee's personal bond in similar amount (Form 4–1114), will be required prior to the issuance of a lease. Personal bonds must be secured by negotiable Federal securities in the amount of the bond.

§ 195.16 *Minimum production.* Leases will require the payment of a royalty on a minimum annual production beginning with the sixth full calendar lease year, unless operations are interrupted by strikes, the elements, or casualties not attributable to the lessee, or unless, on application and showing made, lease operations are suspended by the Department of the Interior for the reasons specified in section 39 of the Mineral Leasing Act[3] (30 U. S. C. 209).

§ 195.17 *Application for lease by competitive bidding.* (a) An application for a lease must be filed in duplicate in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany the application. No specific form is required, but the application should include the following:

(1) The applicant's name and address.

(2) If the requested lands are surveyed, they should be described by legal subdivisions, showing meridian, state, township, range, and section; if not surveyed, by metes and bounds connected by courses and distance with some corner of the public land survey. When possible, the approximate legal subdivisions of unsurveyed lands should be stated.

(3) Evidence that the land is valuable for its sodium content, with a statement as to the character, extent and mode of occurrence of the sodium deposits.

(b) The application must be signed by applicant, or by his attorney in fact, supported by the power of attorney.

(c) If it be found that the area applied for is not available for leasing, the applicant will be so informed.

§ 195.18 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will state the time and place of sale; whether the sale will be at public auction or by sealed bids; the description of the lands; and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which bids may be submitted, and a statement (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; and (b) that the Government reserves the right to reject any and all bids. If any bid be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding, is unlawful. See 18 U. S. C. 1860.

SODIUM LEASES

§ 195.19 *Bid deposits.* The successful bidder at a sale by public auction must deposit with the Manager of the Land Office, or the officer conducting the sale, on the date of the sale, and each bidder at a sale by sealed bids must submit with his bid the following: Certified check, cashier's check, bank draft, money order or cash for one-fifth of the amount of the bid by him, and a statement over the bidder's own signature with respect to citizenship and interests held similar to that prescribed in § 195.4.

§ 195.20 *Award of lease.* Upon receipt of the high bid at, and at the close of, an oral auction, or the opening of the sealed bids, the Manager, subject to his right to reject any and all bids, will award the lease to the successful bidder, who will be notified accordingly. Four copies of the lease will be sent to the successful bidder, who will be required within 30 days from receipt thereof to execute them, pay the balance of the bonus bid, the first year's rental, and the cost of publication of the notice of lease offer as specified in § 195.18, and file a bond as required by § 195.15. If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended. If the lease awarded to the successful bidder is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease. If the bidder dies before the lease is issued, evidence such as specified in § 195.12 (c) must be filed before it can be determined to whom the lease may be issued.

§ 195.21 *Renewal leases.* An application for a renewal lease must be filed in the appropriate land office not less than 30 days nor more than 90 days before the lease term expires. Thereafter, the lessee will be notified of the terms and conditions to be prescribed in the renewal lease. Unless the lessee files written objections to the proposed terms, or files a relinquishment of the lease within 30 days after receipt of such notice, he will be deemed to have agreed to such terms and to the renewal of the lease. Prior to the issuance of a renewal lease, the lessee will be required to submit a new bond as prescribed in § 195.15.

§ 195.22 *Relinquishment of lease.* Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties, and to provide for the

[3] See showing required under § 191.26 of this title, as amended.

preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

§ 195.23 *Cancellation of lease.* If the lessee fails to comply with the general regulations in force at the date of the lease, or defaults with respect to any of the terms, covenants, or stipulations of the lease, and such failure or default continues for 30 days after service of written notice thereof by the lessor, then the lessor may bring appropriate court proceedings to forfeit and cancel the lease as provided in section 31 of the Act (30 U. S. C. 188). A waiver of any particular cause for forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause, or for the same cause occurring at any other time.

TRANSFER OF PERMITS AND LEASES

§ 195.24 *Transfers, including subleases.* (a) Permits and leases may be transferred in whole or in part. The approval of a transfer of part of the lands in a permit or lease will create a new permit or lease for the transferred portion. A discovery either on the retained or the assigned portion will not inure to the benefit of the other, nor will approval of a transfer extend the life of the permit or the renewal periods of the lease. Transfers, whether by direct assignments, operating agreements, subleases, working or royalty interests, or otherwise, must be filed for approval in duplicate at the appropriate land office within 90 days after execution. Evidence of the qualifications of the assignee or transferee to hold the permit or lease, as required by § 195.4, must be submitted simultaneously. Before a transfer of a permit or lease will be approved, the consent of the surety to the substitution of the transferee as principal, or a new bond with the transferee as principal, must be submitted if the original permit or lease required the maintenance of a bond. If the transfer is for part of the land only it must be for a legal subdivision and (1) the consent of the surety to the transfer and its agreement to remain bound as to the interest retained by the permittee or lessee must be submitted, as well as (2) a new bond with the transferee as principal covering the portion of the lands transferred. The account under the permit or lease must be in good standing before approval of transfer will be given. A transfer will take effect the first day of the month following its approval, or if the transferee requests, the first day of the month of the approval.

(b) An application for approval of any instrument transferring a lease or permit or interest therein must be accompanied by a service fee of $10. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

(c) No transfer will be approved if the transferee is not qualified to take and hold a permit or lease or if his bond is insufficient. A minor, except a minor heir or devisee of a permittee or lessee, is not qualified to hold a permit or lease and a transfer to a minor will not be approved.

(d) In order for the heirs or devisees of a deceased holder of a permit or lease, an operating agreement, or a royalty interest in a permit or lease, to be recognized by the Secretary as the holder of the permit or lease, agreement or interest, there must be furnished the appropriate showing required under § 195.12 (c).

• § 195.25 *Overriding royalties.* (a) An overriding royalty interest may be created by assignment or otherwise: *Provided, however,* That if the total of the overriding royalty interests at any time exceeds one percent of the gross value of the output at the point of shipment to market, they shall be subject to reduction or suspension by the Secretary to a total of not less than one percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so in order (1) to prevent premature abandonment, or (2) to make possible the economic mining of marginal or low grade deposits. Where there is more than one overriding royalty interest, any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof or, in the absence of such agreement, in the inverse order of the dates of creation of such interests.

(b) Any assignment, sublease, or other transfer or agreement which creates an overriding royalty interest will not be approved unless the owner of that interest files his agreement in writing that such interest is subject to suspension or reduction as provided in paragraph (a) of this section. No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the Secretary.

USE PERMITS

§ 195.26 *Use permits for additional lands.* (a) A permittee or lessee may be granted a right to use, during the life of the permit and lease, the surface of not exceeding 40 acres of unoccupied nonmineral public land not included within the boundaries of a national forest for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease. The annual charge for such use will be established by the officer issuing the permit at the reasonable rental value of the lands but at not less than 25 cents an acre or fraction thereof.

(b) Applications for permits to use additional land shall be filed in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany each application. Such applications must state why the additional land is necessary, describe the land in accordance with § 195.17 (a) (2), and state whether it is unoccupied and nonmineral. The application must also contain an agreement to pay the annual charge prescribed in the permit. Use permits will be issued on Form 4–1135 and dated as of the first day of the month after its issuance unless the applicant requests that it be dated the first day of the month of issuance.

This Circular replaces Circulars 1892, 1931, 1959 and that part of 2001 relating to 43 CFR, Part 195

INT.DUP.,D.C.59-61250

TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2023]

SUBCHAPTER L—MINERAL LANDS

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

Stipulations and Consent of Agency Having Jurisdiction of Land; Notification to Other Parties Controlling Surface

Section 200.3 is amended to read as follows:

§ 200.3 Stipulations and consent of agency having jurisdiction of land; notification to other parties controlling surface.

(a) Leases or permits may be issued only with the consent of the head or other appropriate official of the executive department, independent establishment or instrumentality having jurisdiction over the lands containing the deposits, or holding a mortgage or deed of trust secured by such lands, and subject to such conditions as that official may prescribe to insure adequate utilization of the lands for the primary purpose for which they were acquired or are being administered.

(b) All applications and offers for permits or leases should name, if practicable, the Government agency from which consent to the issuance of a permit or lease must be obtained, or the agency that may have title records covering the ownership of the mineral interest involved, and identify the project, if any, of which the land is a part. Permits or leases to which such consent is necessary will not be issued until the lessee or permittee executes such stipulations as may be required by the consenting agency.

(c) Where the United States has conveyed the title to, or otherwise transferred the control of the surface of the lands containing the deposits to any State or any political subdivision, agency or instrumentality thereof, or a college or any other educational corporation, or association, or a charitable or religious corporation or association, such party shall be given written notification by certified mail of the application for the permit or lease, and shall be afforded a reasonable period of time within which to suggest any stipulations deemed by it to be necessary for the protection of existing surface improvements or uses to be included in the permit or lease, setting forth the facts supporting the necessity thereof, and also to file any objections it may have to the issuance thereof. Where such party opposes the issuance of the permit or lease, the facts submitted in support must be carefully considered and each case separately decided on its merits. However, such opposition affords no legal basis or authority to refuse to issue the permit or lease for the reserved minerals in the lands; in such case, the final determination whether to issue the permit or lease depends upon whether the interests of the United States would best be served thereby.

FRED A. SEATON,
Secretary of the Interior.

SEPTEMBER 4, 1959.

[F.R. Doc. 59-7555; Filed, Sept. 10, 1959; 8:47 a.m.]

Published in 24 F. R. September 11, 1959

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Circular Distribution List

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER U—STATE AND RAILROAD GRANTS

[Circular 2024]

PART 270—STATE GRANTS FOR EDUCATIONAL, INSTITUTIONAL, AND PARK PURPOSES

Indemnity Selections; Quantity and Special Grant Selections

Sections 270.1 through 270.22a are revoked and the following issued in lieu thereof:

INDEMNITY SELECTIONS

§ 270.1 Statutory authority.

(a) Sections 2275 and 2276 of the Revised Statutes, as amended August 27, 1958 (43 U.S.C. 851, 852), referred to in §§ 270.1 to 270.6 as "the law," authorize the public land States except Alaska to select lands of equal acreage within their boundaries as indemnity for grant lands in place lost to the States because of appropriation prior to survey or because of natural deficiencies resulting from such causes as fractional sections and fractional townships.

(b) The law provides that idemnity for lands lost because of natural deficiencies will be selected from the unappropriated, nonmineral, surveyed public lands, and that indemnity for lands lost because of appropriation prior to survey will be selected from the unappropriated, surveyed public lands subject to the following restrictions:

(1) No lands mineral in character may be selected except to the extent that the selection is made as indemnity for mineral lands.

(2) No lands on a known geologic structure of a producing oil or gas field may be selected except to the extent that the selection is made as indemnity for lands on such a structure.

(c) The law also provides that lands subject to a mineral lease or permit may be selected, but only if the lands are otherwise available for selection, if all the lands subject to that lease or permit are selected, and if none of the lands subject to that lease or permit are in a producing or producible status. It permits the selection of lands withdrawn, classified, or reported as valuable for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, oil shale, sodium, and sulphur and lands withdrawn by Executive Order No. 5327 of April 15, 1930, if such lands are otherwise available for, and subject to, selection, provided that, except where the base lands are mineral in character, such minerals are reserved to the United States in accordance with and subject to the regulations in Part 102 of this chapter. Except for the withdrawals mentioned in this paragraph and for lands subject to classification under section 7 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315f), as amended, the law does not permit the selection of withdrawn or reserved lands.

(d) The law further provides that upon the revocation not later than 10 years after August 27, 1958, of any order of withdrawal, in whole or in part, the order or notice taking such action shall provide for a period of not less than six months before the date on which it otherwise becomes effective in which the State in which the lands are situated shall have a preferred right of application for selection under the law, except as against prior existing valid settlement and preference rights conferred by existing law other than the Act of September 27, 1944 (58 Stat. 748; 43 U.S.C. 282), as amended, or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program.

(e) Subsection (b) of the section 2276 of the Revised Statutes, as amended, sets forth the principles of adjustment where selections are made to compensate for deficiencies of school lands in fractional townships.

§ 270.2 Waiver of State preference right of application.

Where the proper selecting agent of the State files in writing in the appropriate land office a waiver of the preference provisions of paragraph (d) of § 270.1 in connection with the proposed revocation of an order of withdrawal, the order or notice effecting such revocation will not provide for such preference.

§ 270.3 Applications for selection.

(a) An application for selection will be considered as a petition for classification of the land under section 7 of the Taylor Grazing Act, as amended, in the manner prescribed by Part 296 of this chapter.

(b) Applications for selection of lands under the law will be made by the proper selecting agent of the State and will be filed, in duplicate, in the proper land office in the State or for lands in a State in which there is no land office, will be filed with the Bureau of Land Management, Washington 25, D.C., except that applications for lands in North Dakota or South Dakota shall be filed in the land office at Billings, Montana, applications for lands in Kansas or Nebraska shall be filed in the land office at Cheyenne, Wyoming, and for lands in Oklahoma in the land office at Santa Fe, New Mexico.

(c) No special form of application is required but it must be typewritten and must contain, or be accompanied by, the following information:

(1) A reference to the Act of August 27, 1958 (72 Stat. 928).

(2) A certificate by the selecting agent showing

(i) That the selection is made under and pursuant to the laws of the State.

(ii) His official title and his authority to make the selection in behalf of the State.

(iii) That no portion of the selected land is occupied for any purpose by the United States and that the land is unoccupied, unimproved, and unappropriated by any person claiming the land other than the applicant.

(iv) All facts relative to medicinal or hot springs or other waters upon the selected lands.

(v) That indemnity has not been previously granted for the assigned base lands and that no other selection is pending for such assigned base.

(3) A statement describing the mineral or nonmineral character of each smallest legal subdivision of the base and selected lands.

(4) A certificate by the officer or officers charged with the care and disposal of school lands that no instrument

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Circular Distribution List

purporting to convey, or in any way incumber, the title to any of the land used as base or bases, has been issued by the State or its agents.

(d) In addition to the requirements of paragraph (c) of this section, applications for selection must conform with the following rules:

(1) The selected and base lands must be described in accordance with the official plats of survey except that unsurveyed base lands will be described in terms of their probable legal description, if and when surveyed in accordance with the rectangular system of surveys.

(2) The selection in any one application must not exceed 640 acres.

(3) Separate base or bases must be assigned to each smallest legal subdivision of selected land and such base or bases must correspond in area with each subdivision. A portion of a smallest actual or probable legal subdivision may be assigned as base but such assignment is an election to take indemnity for the entire subdivision and is a waiver of the State's rights to such subdivision, except that any remaining balance may be used as base for future selections.

(4) The cause of loss of the base lands to the State must be specifically stated for each separate base.

(e) Applications for selection must be accompanied by a fee of $2 for each 160 acres, or fraction thereof, except that applications by the States of Arizona and New Mexico must be accompanied by a fee of $1 for each 160 acres, or fraction thereof. The fee will be retained by the Government only to the extent that the selections are approved.

§ 270.4 Publication and protests.

(a) The State will be required to publish once a week for five consecutive weeks in accordance with § 106.14 of this chapter, at its own expense, in a designated newspaper and in a designated form, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of a certification to the State for lands selected under the law. A protestant must serve on the State a copy of the objections and furnish evidence of service to the appropriate land office.

(b) The State must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

§ 270.5 Certifications; mineral leases and permits.

(a) Certifications will be issued for all selections approved under the law by the authorized officer of the Bureau of Land Management.

(b) Where lands subject to a mineral lease or permit are certified to a State, the State shall succeed to the position of the United States thereunder.

§ 270.6 Appeals.

An appeal pursuant to the rules of practice, Part 221 of this chapter, may be taken from the decision of the authorized officer of the Bureau of Land Management.

QUANTITY AND SPECIAL GRANT SELECTIONS

§ 270.7 Scope of regulations.

Sections 270.7 to 270.9 apply generally to quantity and special grants made to States other than Alaska.

§ 270.8 Lands subject to selection.

Selections made in satisfaction of quantity and special grants can generally be made only from the vacant, unappropriated, nonmineral, surveyed public lands within the State to which the grant was made. If the lands are otherwise available for selection, the States may select lands which are withdrawn, classified, or reported as valuable for coal, phosphate, nitrate, potash, oil, gas, asphaltic minerals, sodium, or sulphur, provided that the appropriate minerals are reserved to the United States in accordance with and subject to the regulations of Part 102 of this chapter.

§ 270.9 Applicable regulations.

The regulations in §§ 270.3 to 270.6 apply to quantity and special grants with the following exceptions and modifications:

(a) Section 270.5(b) and §§ 270.3(c)(4), 270.3(d)(3), and 270.3(d)(4), and all references to base lands, do not apply.

(b) Section 270.3(c)(1) is modified to require reference to the appropriate granting act; § 270.3(c)(3) is modified to require a statement testifying to the nonmineral character of each smallest legal subdivision of the selected land; § 270.3(d)(2) is modified to permit as much of 6,400 acres in a single selection; § 270.3(e) is modified to be consistent with § 216.14 of this chapter; and § 270.3(c)(2)(v) is modified to require a certificate that the selection and those pending, together with those approved, do not exceed the total amount granted for the stated purpose of the grant.

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 11, 1959.

[F.R. Doc. 59-7761; Filed, Sept. 17, 1959; 8:47 a.m.]

This Circular replaces Circulars 260 and 659

INT.DUP.,D.C.59-62130

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—SALES SUBJECT TO SPECIAL LAWS

[Circular No. 2037]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS

The following sections are added to Part 115.

§ 115.180 Statutory authority.

The act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a, 1181e) authorizes the Secretary of the Interior, under such rules and regulations as may be necessary and proper, to conserve and manage such portions of the Revested Oregon and California and Reconveyed Coos Bay Wagon Road Grant Lands as are under his jurisdiction, for multiple purposes, including the provision of recreational facilities.

§ 115.181 Definitions.

Except as the context may otherwise indicate, for the terms used in §§ 115.180-115.184 and in contracts made thereunder:

(a) "Bureau" means the Bureau of Land Management, Department of the Interior.

(b) "O. and C. lands" means the Revested Oregon and California, reserved and Reconveyed Coos Bay Wagon Road Grant lands and other lands administered by the Secretary under the provisions of the act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a, 1181e).

(c) "Authorized Officer" means the Government official who has been duly authorized by the Secretary of the Interior to administer O. and C. lands as public recreational sites, or to supervise the construction, operation and maintenance of public recreation facilities and or to administer the use of such sites and facilities through leasing or otherwise.

(d) "Public Recreational Sites" means O. and C. lands possessing special values for such form of intensive public outdoor recreational activity, including but not limited to picnicking, camping, swimming, boating or skiing.

(e) "Public Recreational Facilities" means improvements or structures of any type constructed, operated and maintained on public recreational sites for the accommodation of the public enjoyment of the recreational resources of such sites.

§ 115.182 Establishment of public recreational sites.

(a) Public recreational sites for use and control of reserves such as timber, minerals, and range shall be administered in such a manner as to minimize damage to recreational or scenic resources and facilities. Such reserves uses shall also be regulated so as to protect routes of access to public recreational sites and to minimize damage to scenic values along such routes.

(b) Where adequate recreational facilities on a public recreational site are not provided by private lease or permits to state or local governmental agencies or such organizations where practicable, adequate facilities may be constructed, operated and maintained by the authorized officer alone or under a memorandum or agreement jointly with State, city or local governmental agencies or other interested parties.

§ 115.183 Use of public recreational sites and facilities reserved by the Bureau.

(a) Public recreational sites and facilities operated by the Bureau shall be available for use by the public and shall not be occupied for more than a specified time by a member of the public to the exclusion of the enjoyment of others, or contrary to the public interest.

(b) The authorized officer may in his discretion, with reasonable restrictions, lease the use of public recreational areas and facilities reserved or developed. Including but not limited to picnicking, camping, swimming, boating or skiing, to persons, corporations, associations or governmental agencies, and to regulate the use of such areas and facilities to protect the public health and safety.

(c) The authorized officer may establish, and collect a reasonable service charge for the use of such areas and facilities operated by the Bureau.

(d) No concessions may be granted except in accordance with law.

[Published in 24 F. R. September 30, 1959]

[Circular No. 2037, Supplemental]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

[Circular No. 2025]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS

The following sections are added to Part 115.

§ 115.180 Statutory authority.

The act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a, 1181c) authorizes the Secretary of the Interior, under such rules and regulations as may be necessary and proper, to conserve and manage such portions of the Revested Oregon and California and Reconveyed Coos Bay Wagon Road Grant Lands as are under his jurisdiction, for multiple purposes, including the provision of recreational facilities.

§ 115.181 Definitions.

Except as the context may otherwise indicate, for the terms used in §§ 115.180–115.184 and in contracts made thereunder:

(a) "Bureau" means the Bureau of Land Management, Department of the Interior.

(b) "O. and C. lands" means the Revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant lands and other lands administered by the Bureau under the provisions of the act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a, 1181c).

(c) "Authorized Officer" means the Government official who has been duly authorized to (1) designate O. and C. lands as public recreational sites, (2) to administer the construction, operation and maintenance of public recreation facilities and (3) to administer the use of such sites and facilities through leasing or otherwise.

(d) "Public Recreational Sites" means O. and C. lands possessing special values for some form of intensive public outdoor recreational activity, including but not limited to picnicking, camping, swimming, boating or skiing.

(e) "Public Recreational Facilities" means improvements or structures of any type constructed, operated and maintained in public recreational sites for the enhancement of the public enjoyment of the recreational resources of such sites.

§ 115.182 Competing uses; memoranda of understanding.

(a) In public recreational sites the use and disposal of resources such as timber, minerals, and forage shall be administered in such a manner as to minimize damage to recreational or scenic resources and facilities. Such competing uses shall also be regulated so as to protect routes of access to public recreational sites and to minimize damage to scenic values along such access routes.

(b) Where adequate recreational facilities in a public recreational site are not provided for through lease or permits to state or local government agencies or their instrumentalities under authority of other laws or regulations referred to in § 115.184, such facilities may be constructed, operated and maintained by the authorized officer alone, or under a memorandum of agreement jointly with Federal, state or local government agencies or their instrumentalities.

§ 115.183 Use of public recreational sites and facilities operated by the Bureau.

(a) Public recreational sites and facilities operated by the Bureau shall be for transient use by the public and shall not be occupied by users for extended periods nor in a manner that, in the judgment of the authorized officer, is contrary to the public interest.

(b) The authorized officer may, in his discretion, post reasonable requirements for the use of public recreational sites and facilities operated by the Bureau, including but not limited to provisions to protect the area from fire, protect recreational values, and to protect the public health and safety.

(c) The authorized officer may establish and collect a reasonable service charge for the use of public recreational sites and facilities operated by the Bureau.

(d) No restrictions on the use of public recreational sites and facilities shall be made because of reasons of race, creed, color or country of origin.

(e) The penalty for wilful violation of any of the provisions of this section or of any reasonable rules or regulations promulgated thereunder may be denial of the use of the public recreational sites and facilities and if the circumstances so indicate, the initiation of an action for trespass on the property of the United States.

§ 115.184 Leases, permits, and licenses.

Leases, permits and licenses for the recreational use of the O. and C. lands, including lands containing recreational facilities may be granted, upon application, under the provisions of Parts 9, 254, 257, and 258 of this chapter and shall contain provisions determined necessary by the authorized officer, including but not limited to, provisions to protect the area from fire, protect recreational values, and to protect the public health and safety. Leases, permits and licenses which involve the operation of commercial concessions shall contain stipulations requiring conformance with reasonable public service rules including schedules of charges approved by the authorized officer.

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 23, 1959.

[F.R. Doc. 59-8150; Filed, Sept. 29, 1959; 8:47 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER Z—WITHDRAWALS, RESTORATIONS, AND CLASSIFICATIONS

[Circular No. 2026]

PART 295—WITHDRAWALS AND RESERVATIONS OF FEDERAL LANDS

Miscellaneous Amendments

1. Section 295.9 is revised to read as follows:

§ 295.9 Scope of regulations; who may apply; definitions.

(a) The regulations in §§ 295.9 to 295.16 apply to all proposals for withdrawal, reservation or restriction, under the authority of Executive Order 10355, May 26, 1952 (17 F.R. 4831), or under the statutory authority of the Secretary of the Interior, or under the Act of February 28, 1958 (72 Stat. 27), of lands or water areas owned or controlled by the United States. However, only the following apply to proposals by the Department of Defense which are governed by the provisions of sections 1, 2, and 3 of the Act of 1958, supra: Paragraphs (b) and (c) of this section, §§ 295.10 and 295.11, paragraphs (a) and (c) of § 295.12, and § 295.16.

(b) The heads of Federal agencies and instrumentalities or any subordinate officer designated by them may apply for the withdrawal, reservation or restriction of lands or water areas owned or controlled by the United States for the use or benefit of the agency or instrumentality they represent or where such agency has a direct interest in a State, Territorial, or local program, for the use or benefit of a State or Territory, or political subdivision thereof in connection with such program.

(c) As used in §§ 295.10 to 295.16, the term "withdrawal or reservation" means "withdrawal, reservation, or restriction" and "land" includes both land and water areas.

2. Section 295.10 is revised to read as follows:

§ 295.10 Filing of applications.

(a) Except where the application is classified by the applicant for national security reasons, all applications for withdrawal or reservation must be filed in duplicate in the proper Land Office for the area where the lands are located, or for lands in areas in which there are no Land Offices, with the Bureau of Land Management, Washington 25, D.C., except that applications for lands in North or South Dakota must be filed in the Land Office at Billings, Montana, for lands in Kansas or Nebraska in the Land Office at Cheyenne, Wyoming, and for lands in Oklahoma in the Land Office at Santa Fe, New Mexico. Where the application is classified by the applicant agency for national security reasons, it must be submitted to the Office of the Secretary, Department of the Interior, Washington 25, D.C.

(b) No specific form of application is prescribed but it must contain the following information:

(1) The name and address of the applicant agency and intended using agency;

(2) Legal description of the lands desired, in terms of the public land surveys, where applicable;

(3) When sections 1, 2, and 3 of the Act of February 28, 1958 (72 Stat. 27), are applicable, location of the area involved, to include a detailed description of the exterior boundaries of the lands to be included within, and those to be excepted from, the proposed withdrawal or reservation.

(4) Gross acreage within the exterior boundaries of the requested withdrawal or reservation, and net public land, water, or public land and water acreage covered by the application;

(5) The purpose or purposes for which the area is proposed to be withdrawn, reserved, or restricted, or if the purpose or purposes are classified for national security reasons, a statement to that effect;

(6) Whether the proposed use will result in contamination of any or all of the requested withdrawal or reservation area, and if so, whether such contamination will be permanent or temporary;

(7) The estimated period during which the proposed withdrawal or reservation will continue in effect;

(8) Whether, and if so to what extent, the proposed use will affect continuing full operation of the public land laws and Federal regulations relating to conservation, utilization, and development of mineral resources, timber and other material resources, grazing resources, fish and wildlife resources, water resources, and scenic, wilderness, and recreation and other values;

(9) If effecting the purpose for which the area is proposed to be withdrawn, reserved, or restricted, will involve the use of water in any State, whether, subject to existing rights under law, the intended using agency has acquired, or proposes to acquire, rights to the use thereof in conformity with State laws and procedures relating to the control, appropriation, use, and distribution of water.

(10) A justification for the proposed withdrawal or reservation, including statements showing the need for all the area requested and for the limitation, if any, of concurrent uses;

(11) Citation of the statutory or other authority for the type of withdrawal or reservation requested.

(c) If the application is for the withdrawal of more than 5,000 acres for any one project or facility, the application must be accompanied by a map or maps, in duplicate, of adequate scale, showing clearly the location of the land by legal subdivisions; the proposed utilization of the property, including the location of the major improvements to be erected or installed; areas to be inundated, if any; and any cultural or other features of the lands requested and of the surrounding area deemed by the applicant to be significant and to illustrate the need for and effect of the proposed withdrawal. Standard base maps, where suitable, may be used for the purposes of this paragraph.

3. Paragraph (b) of § 295.11 is amended to read as follows:

§ 295.11 Segregative effect of applications. * * *

(b) An application may be amended at any time by the applicant agency so as to eliminate therefrom lands no longer desired for withdrawal or reservation. The authorized officer of the Bureau of Land Management will have a notice published in the FEDERAL REG-

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on the basis of such information as may be available to him.

(b) When an act of Congress effecting a withdrawal or reservation is approved, the authorized officer of the Bureau of Land Management will have a notice published in the FEDERAL REGISTER specifying the date and hour the lands to the extent not withdrawn, reserved, or restricted by the act shall be relieved of the segregative effect of the application by the Department of Defense.

(c) Should the proposed legislation to effect the withdrawal or reservation fail to be passed by Congress or approved by the President, the authorized officer of the Bureau of Land Management will have a notice published in the FEDERAL REGISTER, after the fact is known or after the close of the final session of the Congress in which the bill referred to in paragraph (a) of this section was introduced, whichever comes first, specifying the date and hour that the lands will be relieved of the segregative effect of the application by the Department of Defense. In the case of notices to be published on bills referred to in paragraph (a) of this section where no action has been taken by the Congress, no publication will be made until 90 days after the date of adjournment of the aforementioned final session of Congress.

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 24, 1958.

[F.R. Doc. 58-7871; Filed, Oct. 2, 1958; 8:48 a.m.]

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2027]

PART 194—POTASSIUM PERMITS AND LEASES

Miscellaneous Amendments

1. Section 194.3 is amended to read as follows:

§ 194.3 Area and limitation on holdings.

(a) Except where the rule of approximation applies, a lease or permit may not include over 2,560 acres in reasonably compact form entirely within an area of six miles square or an area of six survey sections in length of width. No person, association, or corporation may hold, either directly or indirectly in any one State permits for an area that exceeds in the aggregate 51,200 acres; and except as hereinafter provided, leases for an area that exceeds in the aggregate 25,600 acres in one or more mining units.

(b) Any person, association, or corporation holding acreage approximating 25,600 acres of Federal land, upon a showing that the leased deposits extend into adjoining or adjacent Federal lands and that the lands containing such reserves are a necessary and normal part of a mining unit may file an application with the Manager to have such adjoining or adjacent Federal land (including lands under lease, permit lands subject to lease, or unleased lands) designated a fringe-acreage that will not be chargeable under paragraph (a) of this section to leasehold acreage holdings of the applicant. Such an application must be accompanied by a filing fee of $10 which is not returnable. If the Manager shall determine, after consultation with the Mining Supervisor, that the application meets the above requirements and that such designation will result in conservation of natural resources and will provide for economical and efficient recovery as a part of the mining unit, he may designate specific tracts by legal subdivisions not to exceed 2,560 acres in all as nonchargeable to the applicant under paragraph (a) of this section. The intent of this provision is that fringe area deposits not to exceed 2,560 acres may be held without acreage charge upon acquisition of mining rights therein by the applicant. A designation of fringe-acreage under this section shall not constitute a determination that the deposits therein shall be mined only by the applicant.

Paragraph (c) is revoked.

2. Section 194.8 is amended to read as follows:

§ 194.8 Application for permit.

(a) An application for a permit must be filed in duplicate in the appropriate land office. The application must be accompanied by a filing fee of $10 which is not returnable, and by full payment of the first year's rental in the amount specified in paragraph (b) of this section. No specific form of application is required, but the application should include the information and evidence called for in §§ 194.4 and 194.17(a) (1) and (2).

(b) *Permit rental.* A permittee shall pay an annual rental of 25 cents an acre or fraction thereof covered by his permit, but not less than $20 per year, such annual payments of rental shall be made on or before the anniversary date of the permit.

3. Section 194.10 is amended to read as follows:

§ 194.10 Permit bond.

Prior to the issuance of a permit the applicant must furnish a bond of not less than $1,000, with approved corporate surety (Form 4–1130), or his personal bond in similar amount (Form 4–1131) secured by negotiable Federal securities in the amount of the bond.

4. Paragraph (a)(2) of § 194.17 is amended to read as follows:

§ 194.17 Application for lease.

* * * * *

(a) * * *

(2) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the U.S. Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys.

ELMER F. BENNETT,
Acting Secretary of the Interior.

SEPTEMBER 30, 1959.

[F.R. Doc. 59–8362; Filed, Oct. 5, 1959; 8:45 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

[Circular No. 2028]

Subtitle A—Office of the Secretary of the Interior

PART 9—LEASES, PERMITS, AND EASEMENTS FOR PUBLIC WORKS

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE, OR USE, AND ACQUISITIONS

PART 254—RECREATION AND PUBLIC PURPOSES

PART 258—SPECIAL LAND-USE PERMITS

Erection and Maintenance of Advertisement Displays on Public Land

A new paragraph is added to § 9.3 and to § 254.5; and §§ 258.16 through 258.26 are revised in their entirety; all to read as follows:

§ 9.3 General provisions.

* * * * *

(e) No permit, lease, or easement for erection and maintenance of advertising displays on public lands adjacent to the National System of Interstate and Defense Highways (23 U.S.C.) will be issued under the regulations of this part, except in conformity with, and subject to, the national standards prepared and promulgated by the Secretary of Commerce. No permit, lease, or easement for erection and maintenance of advertising displays on public lands adjacent to any other highway will be issued under the regulations of this part if the proposed display would not conform with the standards or policies established by the appropriate State or local governmental entities which have authority to establish such standards or policies. Where the authorized officer finds that established standards or policies are insufficient in connection with any application under the regulations of this part adequately to promote the safety, convenience, and enjoyment of public travel, to protect the public investment in the highway or in the adjacent public lands, to preserve for the public significant scenic or other recreational values in the public lands, or otherwise to protect the public interest, he shall establish such additional standards as he may deem appropriate in the circumstances, giving due consideration to the need for directional and other official signs; the desirability of permitting, where alternative sites are not readily available, signs advertising legitimate activities being conducted at a location within a reasonable distance thereof, and the interest of the traveling public in, and its need for, specific types of information.

§ 254.5 General limitations and conditions on dispositions.

* * * * *

(g) No lease or patent authorizing use of lands for erection and maintenance of advertising displays on public lands adjacent to the National System of Interstate and Defense Highways (23 U.S.C.) will be issued under the regulations of this part, except in conformity with, and subject to, the national standards prepared and promulgated by the Secretary of Commerce. No lease or patent authorizing use of lands for erection and maintenance of advertising displays on public lands adjacent to any other highway will be issued under the regulations of this part if the proposed display would not conform with the standards or policies established by the appropriate State or local governmental entities which have authority to establish such standards or policies. Where the authorized officer finds that established standards or policies are insufficient in connection with any application under the regulations of this part adequately to promote the safety, convenience, and enjoyment of public travel, to protect the public investment in the highway or in the adjacent public lands, to preserve for the public significant scenic or other recreational values in the public lands, or otherwise to protect the public interest, he shall establish such additional standards as he may deem appropriate in the circumstances, giving due consideration to the need for directional and other official signs, the desirability of permitting, where alternative sites are not readily available, signs advertising legitimate activities being conducted at a location within a reasonable distance thereof, and the interest of the traveling public in, and its need for, specific types of information.

PERMITS FOR ADVERTISING DISPLAYS

§ 258.16 Advertising displays on public lands without permission unauthorized.

The erection or maintenance on the public lands of advertising displays, without permission, is unauthorized. Any advertising displays erected or maintained on the public lands, except under authority and pursuant to the terms and conditions of a lease, permit, or easement issued by the authorized officer under applicable regulations (see also Part 9 of this title and Part 254 of this chapter) shall be deemed to be in trespass (see Part 288 of this chapter).

§ 258.17 Definitions.

(a) The words "advertising displays," as used in the regulations of this part, mean any signs, displays, or devices erected or maintained for outdoor advertising or for outdoor public information purposes, except signs erected and maintained by Federal, State, or local highway authorities within highway rights-of-way.

(b) The word "highway" in the regulations of this part is used in its general sense to include all routes of public surface travel.

§ 258.18 Policy.

No permit for erection and maintenance of advertising displays on public lands adjacent to the National System of Interstate and Defense Highways (23 U.S.C.) will be issued under the regulations of this part, except in conformity

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with, and subject to, the national standards prepared and promulgated by the Secretary of Commerce. No permit for erection and maintenance of advertising displays on public lands adjacent to any other highway will be issued under the regulations of this part if the proposed display would not conform with the standards or policies established by the appropriate State or local governmental entities which have authority to establish such standards or policies. Where the authorized officer finds that established standards or policies are insufficient in connection with any application for permit under the regulations of this part adequately to promote the safety, convenience, and enjoyment of public travel, to protect the public investment in the highway or in the adjacent public lands, to preserve for the public significant scenic or other recreational values in the public lands, or otherwise to protect the public interest, he shall establish such additional standards as he may deem appropriate in the circumstances, giving due consideration to the need for directional and other official signs; the desirability of permitting, where alternative sites are not readily available, signs advertising legitimate activities being conducted at a location within a reasonable distance thereof; and the interest of the traveling public in, and its need for, specific types of information.

§ 258.19 Applications for permits.

(a) Applications for special land use permits must be executed in duplicate on Form 4–972. Each application must contain a sufficient recital of the facts relative to the advertising display, including its size, and lighting effect, if any, to enable its substantial construction from the description. A sketch or photograph showing the display, and a photograph showing the location on which it is to be placed, must be furnished. The application must identify the highway along which it is proposed to erect the display and must give the distance and direction of the site, measured by highway travel, to the nearest cities or towns. If the land on which it is desired to place the display has been surveyed, its description must be given in terms of the public land surveys. If the land is unsurveyed, the description must be sufficiently complete to identify its location and boundaries. The application may be filed with the officer in charge of any local office of the Bureau of Land Management having jurisdiction over the lands.

§ 258.20 Fees and charges.

(a) All applications for special land use permits for erection and maintenance of advertising displays or renewal thereof, where the applicant is an individual, corporation, or association, must be accompanied by an application service fee of $10 which will not be returnable. No charge will be made for applications by agencies of the Federal Government, or agencies of the States and political subdivisions thereof.

(b) The annual charges for advertising displays erected and maintained under permit by individuals, associations, and corporations, other than nonprofit organizations, shall be the annual fair rental value of the privilege. The annual charges for advertising displays erected and maintained under permit by State and local governments and their instrumentalities and by nonprofit organizations shall take into consideration the public purposes which the displays would serve. No annual charge will be made for advertising displays erected and maintained under permit by Federal agencies.

(c) The annual charges must be paid in advance for such periods as may be specified by the authorized officer. Where a permit is canceled before its expiration, a proportionate refund of the charges will be made.

§ 258.21 Permits.

Special land-use permits to erect and maintain advertising displays on the public lands will be issued on Form 4–972 by the authorized officer, in his discretion, for such period as he may deem reasonable in the circumstances. The permits will be revocable in the discretion of the authorized officer at any time.

§ 258.22 Renewals.

A permit may be renewed, in the discretion of the authorized officer, upon the filing of an application for renewal prior to its expiration. Renewal, if granted, will be in the form of a new permit.

§ 258.23 Identification of authorized advertising displays.

Each advertising display erected or maintained under a permit issued pursuant to the regulations of this part, must, for convenient identification, have the serial number of such permit marked or painted thereon.

§ 258.24 Special land-use permit regulations.

All the general provisions of the special land-use permit regulations of this part not inconsistent with the special provisions relating to permits for advertising displays are applicable to such permits.

ROGER ERNST,
Acting Secretary of the Interior.

OCTOBER 20, 1959.

[F.R. Doc. 59–9007; Filed, Oct. 23, 1959; 8:49 a.m.]

This circular replaces circular 1497

GPO 889051

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER A—ALASKA

[Circular No. 2029]

PART 76—STATE GRANTS

Lands Subject to Selection; Patents; Minerals

replaced by 2055

In order to incorporate in the regulations the provisions of the act of August 13, 1959 (73 Stat. 395), paragraph (a) of § 76.12 is revised to read as set forth below.

§ 76.12 Lands subject to selection; patents; minerals.

(a) The act as amended August 18, 1959 (73 Stat. 395), provides that any lease, permit, license, or contract issued under the Mineral Leasing Act of 1920 (41 Stat. 437; 30 U.S.C. 181 et seq.), as amended, or under the Alaska Coal Leasing Act of 1914 (38 Stat. 741; 30 U.S.C. 432 et seq.), as amended, referred to in this section as "the mineral leasing acts," shall have the effect of withdrawing the lands subject thereto from selection by the State, unless the State files an application to select such lands within a period of five years after January 3, 1959. Selections of such areas must include the entire area that is subject to each lease, permit, license, or contract.

(Sec. 76.12 issued under sec. 6, 72 Stat. 342, as amended, 73 Stat. 395)

ROGER ERNST,
Acting Secretary of the Interior.

NOVEMBER 3, 1959.

[F.R. Doc. 59-9440; Filed, Nov. 6, 1959; 8:46 a.m.]

Published in 24 F. R. November 7, 1959

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2030]

PART 193—COAL LEASES, PERMITS, AND LICENSES

Miscellaneous Amendments

1. Section 193.2 is amended to read as follows:

§ 193.2 Area and limitation on holdings; segregation of coal deposits; public hearings.

(a) A single lease or permit may embrace not exceeding 2,560 acres except where the rule of approximation applies. A permit will comprise contiguous tracts, or tracts in reasonably compact form if good reason appears for not including a contiguous area. A lease will comprise contiguous tracts, except in cases where it appears that noncontiguous tracts can be practically worked as a single mine or unit. No person, association or corporation may hold at any one time, either directly or indirectly, leases or permits exceeding 10,240 acres in any one State, except as hereinafter stated.

(b) A person, association, or corporation may file with the Manager of the appropriate land office an application or applications for coal leases or permits for acreage in addition to the 10,240 acres, which application or applications shall be in multiples of 40 acres, not exceeding a total of 5,120 additional acres in any one State, and shall contain a statement that the granting of a lease or permit for such additional lands is necessary to carry on business economically and is in the public interest.

(c) Upon the filing of an application for additional lands as specified in paragraph (b) of this section, the coal deposits in the lands covered thereby shall be temporarily set aside and withdrawn from all forms of disposal under the Act.

(d) All applications filed for additional lands as specified in paragraph (b) of this section shall be posted in the appropriate land office, and the authorized officer shall conduct public hearings thereon. Upon conclusion thereof, he may, in his discretion or whenever sufficient public interest is manifested, reevaluate the lessee's or permittee's need for all or any part of the additional acreage. Thereafter and to the extent necessary for the applicant to carry on business economically, the authorized officer may issue coal leases or permits to the applicant for additional acreage of not more than 5,120 acres (within the aggregate limitation of 2,560 acres in a single lease or permit), subject to such terms and conditions as may be prescribed by the Secretary of the Interior. Such terms and conditions may require the payment either of a cash bonus per acre or fraction thereof or a rental and royalty rate different from that required by the original leases or permits or both.

2. Paragraph (b) of § 193.3 is amended to read as follows:

§ 193.3 Qualifications of applicants.

* * * * *

(b) Every applicant for coal permit or lease, other than a company or corporation operating a common-carrier railroad, must show that, with the area applied for, his or its interest or interests in such permits, leases and applications therefor, directly or indirectly, do not exceed in the aggregate 10,240 acres in any one State.

3. Paragraph (a)(3) of § 193.11 is amended to read as follows:

§ 193.11 Application for lease.

(a) * * *

(3) A statement of the interests, direct or indirect, in other coal leases, permits or applications therefor on public lands in the State in which the lease is desired, identifying same by land office and serial number, and that such interests, when added to the acreage covered by the application, do not exceed in the aggregate 10,240 acres in the State. A railroad company or corporation operating a common carrier must state that its interests, together with the acreage covered by the application, do not exceed in the aggregate 10,240 acres.

4. Section 193.18 is amended by designating the text thereof paragraph (a), changing the title of the section, and adding new paragraph (b) to read as follows:

§ 193.18 Cancellation of lease generally; cancellation of lease or permit issued pursuant to § 193.2(d).

* * * * *

(b) A lease or permit issued pursuant to § 193.2(d) may be canceled by the authorized officer, if the cancellation is in the public interest or the coal deposits in the lands covered thereby are no longer necessary for the lessee or permittee to carry on business economically or if the lessee or permittee has divested himself of all or any part of the original 10,240 acres or no longer has facilities for the exploitation of the deposits under lease or permit. However, such lessee or permittee will be given notice of the proposed cancellation and afforded an opportunity of submitting evidence showing why the lease or permit should not be canceled.

FRED A. SEATON,
Secretary of the Interior.

NOVEMBER 20, 1959.

[F.R. Doc. 59-10027; Filed, Nov. 27, 1959; 8:46 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2031]

PART 201—MINERAL DEPOSITS IN THE OUTER CONTINENTAL SHELF

Extension of Leases by Drilling or Well Reworking Operations

Section 201.20a, a new section, is added to Part 201, to read as follows:

§ 201.20a Extension of leases by drilling or well reworking operations.

(a) The Secretary shall be deemed to have approved, within the meaning of section 8(b)(2) of the Outer Continental Shelf Lands Act, drilling or well reworking operations, conducted on the leased area in the following instances:

(1) If, after discovery of oil or gas in paying quantities has been made on the leasehold, and within 90 days prior to expiration of the five-year term or any extension thereof, or thereafter, the production thereof shall cease at any time, or from time to time, from any cause and production is restored or drilling or well reworking operations are commenced within 90 days thereafter, and such drilling or well reworking operations (whether on the same or different wells) are prosecuted diligently until production is restored in paying quantities.

(2) If, within 90 days prior to expiration of the five-year term or any extension thereof, or thereafter, at any time, or from time to time, lessee is engaged in drilling or well reworking operations on the leasehold and there is no well on the leasehold capable of producing in paying quantities and the lessee diligently prosecutes such operations (whether on the same or different wells) with no cessation of more than 90 days.

(b) The Secretary may approve such other operations for drilling or reworking upon application of lessee.

(c) Nothing in this section obviates the necessity of obtaining the Oil and Gas Supervisor's approval of a plan or notice of intention to drill or of complying with the other provisions of 30 CFR Part 250.

ELMER F. BENNETT,
Acting Secretary of the Interior.

November 24, 1959.

[F.R. Doc. 59-10033; Filed, Nov. 27, 1959; 8:47 a.m.]

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GPO 886549

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LEASES

[Circular 2032]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES AND LICENSES

PART 192—OIL AND GAS LEASES

SUBCHAPTER Z—WITHDRAWALS, RESTORATIONS, AND CLASSIFICATIONS

PART 295—WITHDRAWALS AND RESERVATIONS OF FEDERAL LANDS

Miscellaneous Amendments

1. Section 191.10 is amended by designating the present text as paragraph (a) and by adding thereto a new paragraph (b). The section reads as follows:

§ 191.10 Simultaneous applications or offers for lease.

(a) Where applications or offers received by mail or filed over the counter at the same time are in conflict the right of priority of filing will be determined by public drawing in the manner provided in § 295.8(b) of this chapter.

(b) The priorities of all applications or offers to lease made and filed in accordance with the provisions of § 192.43 of this chapter, whether or not they are in conflict, will be determined by public drawing in the manner provided in § 295.8 of this chapter.

2. Section 192.43 is amended to read as follows:

§ 192.43 Availability of lands to further lease offers where noncompetitive lease expires, is cancelled, relinquished or terminated.

(a) Lands in cancelled or relinquished leases or in leases which terminate by operation of law for non-payment of rental pursuant to 30 U.S.C. sec. 188, which are not withdrawn from leasing nor on a known geological structure of a producing oil and gas field shall be subject to the filing of new lease offers only after notation on the official record of the cancellation, relinquishment, or termination of such lease and only in accordance with the provisions of this section. All lands covered by leases which expire by operation of law at the end of their primary or extended terms shall likewise be subject to the filing of new lease offers only in accordance with the provisions of this section except that notation of such expiration of the leases need not be made on the official records.

(b) On the third Monday of each month or the first working day thereafter if the land office is not officially open for business on the third Monday, the authorized officer of the Bureau of Land Management will post on the bulletin board in each land office a list by subdivision, section, township and range if surveyed or officially protracted, or, if unsurveyed, by the metes and bounds description of the lands in leases which expired, were cancelled, relinquished in whole or in part, or terminated and which will become subject to leasing at 10 o'clock a.m. on the fifth working day thereafter together with a notice stating that the lands in such leases are subject to simultaneous filings of lease offers from the time of such posting until 10 o'clock a.m. on the said fifth working day thereafter.

(c) Each offer to lease must conform with the acreage requirements of § 192.42(d), and must be accompanied by separate checks covering the filing fee and advance rental payment required by the regulations in this chapter. Any offer not so submitted will not be accepted for filing.

(d) If more than one offer to lease all or any part of the acreage covered by an expired, cancelled, relinquished, or terminated lease is filed during the period provided for in paragraph (b) of this section, their priorities will be determined by a public drawing in accordance with § 295.8 of this chapter.

(e) Offers to lease which cover lands not within the foregoing categories and which are received in the same mail or over the counter at the same time, will be considered as having been filed simultaneously and priority to the extent of the conflicts between them will be determined by a public drawing in accordance with the provisions of § 295.8 of this chapter.

(f) If no offers to lease all or any portion of the lands in the expired, cancelled, relinquished or terminated leases are received during the period provided for in paragraph (b) of this section the lands for which no offers are received will thereafter become subject to lease in accordance with regulations in this part.

3. Paragraph (g) of § 192.120 is amended to read as follows:

§ 192.120 Single extension of a noncompetitive lease.

* * * * *

(g) Upon failure of the lessee or the other persons enumerated in paragraph (a) of this section to file an application for extension within the specified period, the lease will expire at the expiration of its primary term without notice to the lessee. Notation of such expiration need not be made on the official records, but the lands covered by such expired lease will be subject to the filing of new lease offers only as provided in § 192.43.

4. Paragraph (a) of § 192.161 is amended to read as follows:

§ 192.161 Cancellation and termination of lease.

(a) Any lease issued after July 29, 1954, or any lease which is extended after that date pursuant to § 192.120 on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on

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the official records of the appropriate Land Office. Upon such notation the lands included in such lease will become subject to the filing of new lease offers only as provided for in § 192.43

5. Section 295.8(b) is amended by adding thereto a new subparagraph (1) to read as follows:

§ 295.8 Processing of simultaneous applications.

* * * * * *

(b) * * *

(1) Notwithstanding the provisions of paragraph (a) of this section, the priorities of all applications or offers to lease made and filed in accordance with the provisions of § 192.43 of this chapter will be determined by public drawing whether or not they are in conflict.

DECEMBER 2, 1959.

ELMER F. BENNETT,
Acting Secretary of the Interior.

[F.R. Doc. 59-10330; Filed, Dec. 7, 1959; 8:47 a.m.]

GPO 887659

Regl 4 P-2153

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2033]

PART 202—RIGHTS-OF-WAY FOR PIPELINES ON THE OUTER CONTINENTAL SHELF

Miscellaneous Amendments

1. Section 202.5 is amended to read as follows:

§ 202.5 Consent of or notice to lessee or right-of-way holder of area crossed or invaded by right-of-way.

An applicant must show the extent to which the right-of-way applied for invades or crosses mineral leases or rights-of-way other than his own and must submit with his application either the written consent of each lessee or right-of-way holder whose lease or right-of-way is so affected or a statement that he has delivered to each lessee or right-of-way holder whose lease or right-of-way is so affected personally or by registered or certified mail a copy of the application and map. If the statement is filed no final action will be taken on the right-of-way application until 15 days have elapsed after the last date of service of such papers, in order to afford the parties concerned ample opportunity to file protests against granting of the right-of-way.

2. Paragraphs (b) and (d) of § 202.6 are amended to read as follows:

§ 202.6 Terms and conditions.

* * * * *

(b) To pay the United States or its lessees or right-of-way holders, as the case may be, the full value for all damages to the property of the United States or its said lessees or right-of-way holders, and to indemnify the United States against any and all liability for damages to life, person, or property arising from the occupation and use of the area covered by the right-of-way.

* * * * *

(d) That the allowance of the right-of-way shall be subject to the express condition that the rights granted will not prevent or interfere in any way with the management, administration of, or the granting either prior or subsequent to the right-of-way grant of other rights by the United States in the submerged lands affected thereby, and that he agrees and consents to the occupancy and use by the United States or its lessees or other right-of-way holders of any part of the right-of-way not actually occupied or necessarily incident to its use for any necessary operations involved in such management, administration or the enjoyment of such other granted rights.

ELMER F. BENNETT,
Acting Secretary of the Interior.

DECEMBER 14, 1959.

[F.R. Doc. 59-10721; Filed, Dec. 17, 1959; 8:46 a.m.]

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GPO 886661

Repl. by C-2189

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2034]

PART 70—MINERAL LANDS; COAL PERMITS AND LEASES AND LICENSES FOR FREE USE OF COAL

PART 71—MINERAL LANDS; OIL AND GAS, PHOSPHATE AND OIL SHALE LEASES, AND POTASH AND SODIUM PERMITS AND LEASES

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

PART 193—COAL LEASES, PERMITS, AND LICENSES

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

Miscellaneous Amendments

The revocations and amendments are as follows:

1. Parts 70 and 71 are revoked.

2. The footnote to § 191.1 is deleted.

3. The Cross Reference footnote which appears after the table of contents to Part 193 is deleted.

4. Paragraph (a) of § 193.1 is amended to read as follows:

§ 193.1 Statutory authority.

* * * * *

(a) Divide into leasing units and award leases of coal lands and coal deposits owned by the United States.

5. § 193.5 is amended to read as follows:

§ 193.5 Permits, leases and licenses for lands disposed of with reservation of coal.

Where lands included in a permit, lease or license have been or may be disposed of with reservation of the coal deposits, a permittee, lessee or licensee must make full compliance with the law under which such reservation was made. See the acts of March 3, 1909 (35 Stat. 844; 30 U.S.C. 81); June 22, 1910 (36 Stat. 583; 30 U.S.C. 83–85), December 29, 1916 (39 Stat. 862; 43 U.S.C. 291–301); June 17, 1949 (63 Stat. 200); June 21, 1949 (63 Stat. 214; 30 U.S.C. 54); March 8, 1922 (42 Stat. 415; 48 U.S.C. 377), and other laws authorizing such reservation.

6. § 193.22 is amended to read as follows:

§ 193.22 Permit bond.

The applicant must furnish a corporate surety bond on Form 4–1130 or his personal bond on Form 4–1131 conditioned upon compliance with all the terms of the prospecting permit. The bond shall be in the sum of $500 except where the lands applied for have been entered or patented with the coal reserved to the United States pursuant to the act of June 22, 1910 (36 Stat. 583; 30 U.S.C. 83–85) or the act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 377), in which event, a bond on the same form in the sum of $1,000 will be required. Personal bonds must be accompanied by negotiable Federal securities in the amount of the bond. The bond may be filed with the application which will expedite action thereon, or within 30 days after receipt of notice by the applicant that the permit will be granted when the bond is filed. The permittee may, in lieu of a bond of the two types specified above, submit one on Form 4–1130 with two qualified sureties as provided in § 191.13 of this chapter.

7. Paragraph (a) of § 200.1 is amended to read as follows:

§ 200.1 Purpose and authority.

(a) The Mineral Leasing Act for Acquired Lands, enacted on August 7, 1947 (61 Stat. 913; 30 U.S.C. 351–359), and referred to in this section and in §§ 200.2 through 200.10, as "the act," authorizes the Secretary of the Interior to issue permits and leases for deposits of oil, gas, oil shale, coal, phosphate, sodium and potassium in lands acquired by the United States subject to the same conditions as contained in the mineral leasing laws of February 25, 1920 (41 Stat. 437), as amended (30 U.S.C. 181–263), February 7, 1927 (44 Stat. 1057), as amended (30 U.S.C. 281–287), and in all laws which amend or supplement these mineral leasing laws. The act also authorizes the issuance of permits and leases for sulphur deposits in such acquired lands, wherever situated, subject to all other conditions contained in the act of April 17, 1926 (44 Stat. 301), as amended (30 U.S.C. 271–276).

8. § 200.4 is amended to read as follows:

§ 200.4 Other regulations applicable: Lease forms, applications, and offers.

Except as otherwise specifically provided in §§ 200.1 to 200.11, inclusive, the regulations prescribed under the mineral leasing laws, and contained in Parts 191 to 198, inclusive, of this chapter, shall govern the disposal and development of minerals under the act to the extent that they are not inconsistent with the provisions of the act. All present interest acquired lands oil and gas leases whether the Government's interest be full or fractional shall be issued on Form 4–1196. Future interest and fractional future interest leases shall be issued on Form 4–1097.

FRED A. SEATON,
Secretary of the Interior.

JANUARY 15, 1960.

[F.R. Doc. 60–587; Filed, Jan. 20, 1960; 8:50 a.m.]

Published in 25 F.R. January 21, 1960 - Effective upon publication

Circular Distribution List

This Circular revokes Circulars 1778; 1815 amdt. 1; 1832; 1859; 1930; 1975 and 1987

GPO 887491

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2035]

PART 192—OIL AND GAS LEASES

Increase in Amount of Oil and Gas Lease Drilling Bond

Section 192.100(c) is amended to read as follows:

§ 192.100 Amount of bonds required of lessee.

* * * * *

(c) All leases shall provide that where a $10,000 bond is not already being maintained a general lease bond in the penal sum of $10,000 conditioned upon compliance with all lease terms covering the entire leasehold, shall be furnished by the lessee prior to the beginning of drilling operations. An operator or, if there is more than one operator covering different portions of the lease, each operator may furnish a $10,000 general lease bond in his own name as principal on the bond in lieu of the lessee. Where there are one or more operator's bond affecting a single lease, each such bond must be conditioned upon compliance with all lease terms for the entire leasehold. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee if he is not a party to the bond. An operator's bond will not be accepted unless the operator holds an operating agreement which has been approved by the Department or has pending an operating agreement in proper condition for approval. The mere designation as operator will not suffice.

ELMER F. BENNETT,
Acting Secretary of the Interior.

JANUARY 19, 1960.

[F.R. Doc. 60-691; Filed, Jan. 22, 1960; 8:49 a.m.]

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GPO 887989

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER G—EXCHANGES

[Circular 2036]

PART 149—EXCHANGES FOR CONSOLIDATION OR EXTENSIONS OF INDIAN RESERVATIONS OR INDIAN HOLDINGS

Part 149 is completely revised to read as follows:

GENERAL PROVISIONS

Sec.
149.1 Applications.
149.2 Deed to the United States.
149.3 Evidence of title.
149.4 Taxes
149.5 Publications; protests.
149.6 Unperfected claims
149.7 Removal of improvements.
149.8 Appeals.

EXECUTIVE ORDER RESERVATIONS

149.9 Statutory authority.
149.10 Criteria for approval of exchanges.

SAN JUAN, MCKINLEY, AND VALENCIA COUNTIES, NEW MEXICO

149.11 Statutory authority.
149.12 Criteria for approval of exchanges.

WALAPAI INDIAN RESERVATION, ARIZONA

149.13 Statutory authority.
149.14 Criteria for approval of exchanges.

APACHE, CONCONINO, AND NAVAJO COUNTIES, ARIZONA

149.15 Statutory authority.

Sec.
149.16 Springs and other living waters; minerals.
149.17 Criteria for approval of exchanges.
149.18 Selections by State in lieu of school lands in reservation.

PAPAGO INDIAN RESERVATION, ARIZONA

149.19 Statutory authority.
149.20 Applicable regulations

NAVAJO INDIAN RESERVATION, UTAH

149.21 Statutory authority
149.22 Applicable regulations

PUEBLO AND CANONCITO NAVAJO, NEW MEXICO

149.23 Statutory authority
149.24 Criteria for approval of exchanges

AUTHORITY: §§ 149.1 to 149.8 issued under the authority cited for the sections which follows. Sections 149.9 to 149.10 issued under sec. 1, 33 Stat. 211, 43 U.S.C. 149; §§ 149.11 to 149.12 under sec. 13, 41 Stat. 1239, §§ 149.13 to 149.14 under 43 Stat. 954; §§ 149.15 to 149.18 under sec. 2, 48 Stat. 961; §§ 149.19 to 149.20 under 50 Stat. 536, 25 U.S.C. 463a–463c; §§ 149.21 to 149.22 under 47 Stat. 1418, 43 U.S.C. 190a; and §§ 149.23 to 149.24 under sec. 2, 63 Stat. 604, 25 U.S.C. 621.

CROSS REFERENCE: For exchanges by States, under the Taylor Grazing Act, see Part 147, this chapter. For exchanges for migratory bird or other wild life refuges, see Part 151 of this chapter. For exchanges for the benefit of particular States, see Part 152 of this chapter. For exchanges for the consolidation or extension of national forests, see Part 148, of this chapter. For exchanges of privately owned lands, under the Taylor Grazing Act, see Part 146 of this chapter. For exchanges to eliminate private holdings from national parks and national monuments, see Part 150 of this chapter. For Indian allotments and possessions, see Part 176 of this chapter. For land classifications, see Part 296 of this chapter. For Surveys, see Part 280 of this chapter. For Bureau of Indian Affairs, Department of the Interior, see Indians, 25 CFR Chapter I.

GENERAL PROVISIONS

§ 149.1 Applications.

(a) Applicants for exchange must file, in triplicate, in the appropriate office of the Bureau of Land Management an application on Form 4–1493,[1] executed in accordance with the instructions on the form. Such applications must be filed in the proper land office, or for land in States for which there are no land offices, with the Bureau of Land Management, Washington 25, D.C., except that applications for lands in North Dakota or South Dakota, must be filed in the land office at Billings, Montana; for lands in Nebraska or Kansas in the land office at Cheyenne, Wyoming; and for lands in Oklahoma in the land office at Santa Fe, New Mexico.

(b) Valid applications will segregate the selected lands on the records of the Bureau of Land Management.

(c) An application may be rejected at any time prior to the issuance of patent. In the event that the applicant had submitted deed and title evidence in connection with a rejected exchange, the evidence of title will be returned to the applicant and, if the deed was recorded, a quitclaim deed for the land conveyed to the United States will be issued under section 6 of the act of April 28, 1930 (46 Stat. 257; 43 U.S.C. 872).

[1] Filed as part of the notice of proposed rule making document, F.R. Doc. 59–8365.

§ 149.2 Deed to the United States.

(a) Owners of private lands will be required to submit a warranty deed of conveyance of the offered land to the United States, properly executed, acknowledged, and recorded in accordance with the laws of the State in which the lands are situated. Revenue stamps required by Federal and State law must be affixed to the deed and canceled. A deed executed by an individual grantor must disclose his marital status. If married, the spouse of the grantor must join in the execution of the deed to bar any right of courtesy, dower, community interest or any other claim to the land conveyed, or it must be fully shown that under the laws of the State in which the conveyed land is situated, the grantor's spouse has no interest present or prospective in the land. A deed executed by a corporation must recite that it was executed pursuant to a resolution or order of its board of directors, or other governing body, and a copy of such resolution or order must accompany the deed. The corporate seal must be affixed to both instruments.

(b) States will be required to submit a deed of conveyance of the offered land to the United States properly executed, acknowledged, and duly recorded in accordance with the laws of the State making the exchange, together with a certificate of the proper State officer showing that the officer executing the conveyance was authorized to do so under the State law.

(c) Holders of unperfected claims and Indian trust patents will not be required to submit a deed of conveyance. In lieu thereof, they will be required to submit a relinquishment of the claim or trust patent to the United States, witnessed by two persons or before a notary public or other official with a seal. The relinquishment must contain a statement that the applicant has not sold, assigned, mortgaged, or contracted to sell, assign, or mortgage the land covered by the unperfected claim or relinquished allotment.

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(d) All deeds and relinquishments must state that they were made "for and in consideration of the exchange of certain lands, as authorized by" the appropriate act of the Congress.

(e) Where appropriate, the deed shall recite that the conveyance is made to the United States, "as grantee in trust" for the appropriate Indian tribe or group.

§ 149.3 Evidence of title.

(a) Owners of private lands offered in exchange must submit a policy of title insurance, a certificate of title, or an abstract of title as evidence of title to the offered lands. (1) Consummation of an exchange is expedited by applicant's submission, as evidence of title to the offered land, of a policy of title insurance in the form approved by the Department of the Interior, Form 4–1202, or a certificate of title, issued by a qualified title insurance company which is acceptable to the Department of the Interior. Such evidence of title is therefore preferred. However, an abstract of title is also acceptable. The evidence of title must show and certify that title to the offered land has vested in the United States free and clear of all liens, encumbrances and assessments which may operate as liens, as of the date of recordation of the deed to the United States. (2) A policy of title insurance or a certificate of title must be issued by a title insurance company authorized by law to issue such policies or certificates, and other evidence of title, if furnished, must be prepared and authenticated by an abstractor or abstract company or by the recorder of deeds or other proper officer of the State under his official seal.

(b) States must submit satisfactory evidence of title to the offered lands. (1) If the offered lands were ever held in private ownership, the State must submit a policy of title insurance, certificate of title, or an abstract of title as prescribed in paragraph (a) of this section. (2) If the offered lands were never held in private ownership the State must submit a certificate of the proper State officer showing that the offered lands had not been sold or otherwise encumbered by the State and a certificate by the recorder of deeds or other proper officer under his official seal or by an abstracter or abstract company that no instrument purporting to convey or in any way encumber title to the offered land is of record or on file.

(c) Holders of unperfected claims and Indian trust patents must file a certificate of the recorder of deeds or other proper officer under his official seal or by an abstracter or abstract company that no instrument purporting to convey or in any way encumber title to the offered land is of record or on file.

§ 149.4 Taxes.

In case taxes which have been assessed or levied on the offered lands constitute liens against the lands although such taxes are not due and payable at the time of the recordation of the deed to the United States, the applicant may furnish a bond with a qualified surety for double the amount of taxes paid on the land for the previous year, or, in lieu of a bond, a cash deposit in like amount, to secure the payment of such taxes. When proper evidence of payment in full of such taxes is furnished by the applicant, liability under the bond will be terminated or the cash deposit will be returned to him.

§ 149.5 Publication; protests.

(a) Applicants for exchange will be required upon demand to publish once a week for five consecutive weeks in accordance with § 106.14 of this chapter, in a designated newspaper and in a designated form, and at their own expense, a notice allowing all persons claiming the land adversely to file in the appropriate office their objections to the issuance of patent under the applications. A protestant must serve on the applicant a copy of the objections and furnish evidence of such service.

(b) Applicants must file a statement of the publisher, accompanied by a copy of the notice published, showing that publication has been had for the required time.

§ 149.6 Unperfected claims.

Patents will not issue for the selected lands when the offered lands are embraced in unperfected claims until the applicant complies with all the requirements of the law and regulations under which the unperfected claims have been held. The applicant will be credited with all acts of compliance whether earned in connection with the offered lands or selected lands or both.

§ 149.7 Removal of improvements.

When any buildings, fencing, or other movable improvements owned or erected by an applicant on the land relinquished or conveyed are not a part of the offer to relinquish or convey, the applicant may remove such improvements from the land upon receipt of notice that the exchange has been approved: *Provided,* That such removal is accomplished within 90 days from receipt by him of said notice.

§ 149.8 Appeals.

An appeal pursuant to the rules of practice, Part 221 of this chapter, may be taken from the decision of any officer of the Bureau of Land Management.

EXECUTIVE ORDER RESERVATIONS

§ 149.9 Statutory authority.

The act of April 21, 1904 (33 Stat. 211; 43 U.S.C. 149), authorizes the Secretary of the Interior to exchange any unreserved, nonmineral, nontimbered, surveyed public lands located in the same State or Territory as the offered lands for any privately owned lands over which an Indian reservation has been extended by executive order.

§ 149.10 Criteria for approval of exchanges.

Subject to compliance with the regulations in this part, proposed exchanges will be approved if:

(a) The selected and offered lands are approximately equal in value and in area.

(b) The selected lands are suitable for disposal through exchange and are not needed for any other program or disposal.

(c) The offerd lands are needed for the use of the Indians.

(d) The applicant pays all costs of consummating the exchange.

SAN JUAN, MCKINLEY, AND VALENCIA COUNTIES, NEW MEXICO

§ 149.11 Statutory authority.

Section 13 of the act of March 3, 1921 (41 Stat. 1239), authorizes the Secretary of the Interior to exchange any vacant, surveyed public lands, including any lands reconveyed under this act, in San Juan, McKinley, and Valencia Counties, New Mexico, for any privately owned lands, State school lands (except those granted by the act of January 25, 1927, 44 Stat. 1026, as amended by the act of April 22, 1954, 68 Stat. 57, 43 U.S.C. 870), and lands covered by valid unperfected claims, and by Indian allotments and Indian allotment selections in such counties.

§ 149.12 Criteria for approval of exchanges.

Subject to compliance with the regulations in this part, proposed exchanges will be approved if:

(a) The selected and offered lands are approximately equal in value.

(b) The selected lands are suitable for disposal through exchange and are not needed for any other program or disposal.

(c) The exchange would serve to consolidate the holdings of the proponent.

(d) The proponent owns land in the township in which the selected lands are located.

WALAPAI INDIAN RESERVATION, ARIZONA

§ 149.13 Statutory authority.

The act of February 20, 1925 (43 Stat. 954), authorizes the Secretary of the Interior to exchange any Indian lands

within the Walapai Indian Reservation for any privately owned lands, State school lands, and lands covered by valid unperfected claims within the boundaries of said reservation in Mohave and Coconino Counties, Arizona.

§ 149.14 Criteria for approval of exchanges.

Subject to compliance with the regulations in this part, proposed exchanges will be approved if:

(a) The selected and offered lands are approximately equal in value.

(b) The selected lands are excess to the needs of the Indians.

(c) The offered lands are needed for the use of the Indians and would serve to consolidate Indian holdings.

APACHE, COCONINO, AND NAVAJO COUNTIES, ARIZONA

§ 149.15 Statutory authority.

Section 2 of the act of June 14, 1934 (48 Stat. 961), as supplemented by the act of May 9, 1938 (52 Stat. 300) authorizes the Secretary of the Interior to exchange (a) any vacant, nonmineral, surveyed public lands in Apache, Navajo, and Coconino Counties, Arizona, for any privately owned lands in Apache and Coconino Counties and in that portion of Navajo County north of the townships line between Townships 20 North and 21 North, Gila and Salt River Meridian, and (b) any available lands within the reservation described in the abovementioned act of 1934 for any lands covered by Indian allotments and Indian allotment selections in the three mentioned counties.

§ 149.16 Springs and other living waters; minerals.

(a) Applicants may select public lands containing springs or other living waters only if the offered lands contain similar waters.

(b) If an applicant reserves oil, gas, and other minerals in the offered lands, a like reservation will be made in the selected lands.

§ 149.17 Criteria for approval of exchanges.

Subject to compliance with the regulations in this part, proposed exchanges will be approved if:

(a) The selected and offered lands are approximately equal in value.

(b) The selected lands are suitable for disposal through exchange and are not needed for any other program or disposal.

(c) The offered lands are needed for the use of the Indians.

§ 149.18 Selections by State in lieu of school lands in reservation.

Selections by the State of Arizona in lieu of school lands within the boundary of the Navajo Reservation as defined by section 1 of the act of June 14, 1934 (48 Stat. 961), will be made in accordance with the regulations governing the selection of lands by States contained in §§ 270.1 to 270.16 of this chapter, insofar as they apply to indemnity school land selections, and will also be subject to all other existing regulations pertaining to such selections except that no fees or commissions are required, and the offered and selected lands need not be of equal area as in ordinary indemnity school land selections but need only be approximately equal in value.

PAPAGO INDIAN RESERVATION, ARIZONA

§ 149.19 Statutory authority.

The act of July 8, 1937 (50 Stat. 536; 25 U.S.C. 463a–463c) authorizes the Secretary of the Interior to exchange any unreserved nonmineral public lands in Arizona for any State owned lands within the area added by the act to the Papago Indian Reservation.

§ 149.20 Applicable regulations.

The State of Arizona will comply with the provisions of §§ 270.1 to 270.16 of this chapter, insofar as they apply to State indemnity selections, or with the provisions of Part 147 of this chapter, except that (a) all transactions will be made on an equal acreage basis and (b) the State will not be required to pay any fees or commissions.

NAVAJO INDIAN RESERVATION, UTAH

§ 149.21 Statutory authority.

The act of March 1, 1933 (47 Stat. 1418; 43 U.S.C. 190a), authorizes the Secretary of the Interior to exchange any surveyed, unreserved, nonmineral public lands in the State of Utah for any State school sections within the area added to the Navajo Indian Reservation by the act.

§ 149.22 Applicable regulations.

The State of Utah will comply with the provisions of §§ 270.1 to 270.16 of this chapter, insofar as they apply to State indemnity selections, except that (a) the offered and selected lands must be of approximately equal value in addition to being of equal acreage and (b) the State will not be required to pay any fees or commissions.

PUEBLO AND CANONCITO NAVAJO, NEW MEXICO

§ 149.23 Statutory authority.

Section 2 of the act of August 13, 1949 (63 Stat. 604; 25 U.S.C. 621), authorizes the Secretary of the Interior to exchange any unreserved public lands or interests therein, including improvements and water rights, in the State of New Mexico for any privately owned or State owned lands or interests therein, including improvements and water rights, situated within the area described in section 1 of the notice dated March 25, 1950 (15 F.R. 1852).

§ 149.24 Criteria for approval of exchanges.

Subject to compliance with the regulations in this part, proposed exchanges will be approved if:

(a) The selected lands or interests are approximately equal in value to the offered lands or interests.

(b) The selected lands or interests are suitable for disposal through exchange and are not needed for any other program or disposal.

(c) The offered lands or interests are needed for the use of the Indians.

(d) The tribal authorities of the Pueblo or Navajo Tribe involved give their consent to the exchange.

ELMER F. BENNETT,
Acting Secretary of the Interior.

JANUARY 20, 1960.

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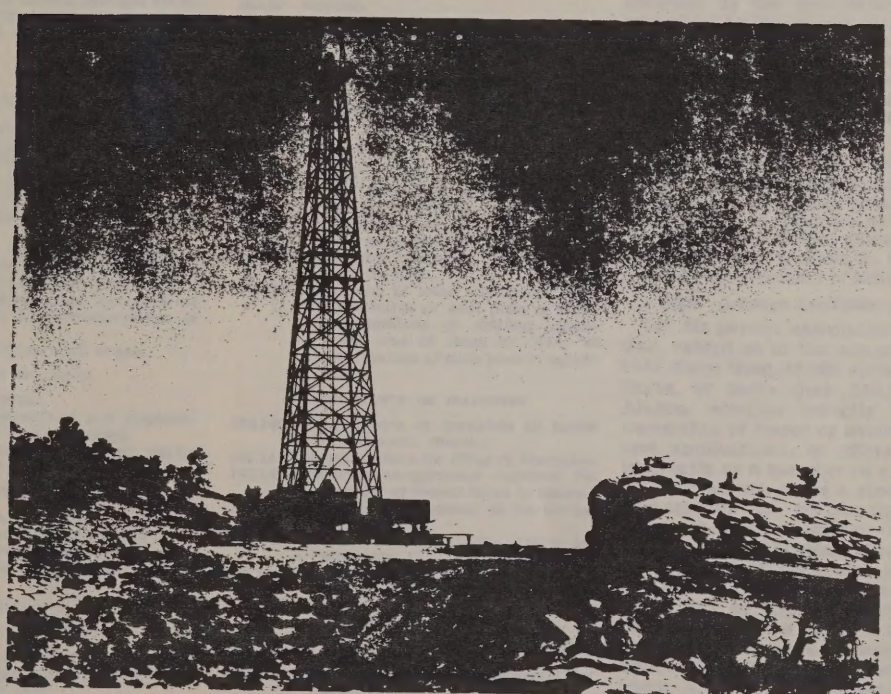
PART 192, TITLE 43,
Code of Federal Regulations



DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

January 28, 1960

Code of Federal Regulations

TITLE 43

PART 192

FEDERAL PUBLIC LANDS

- ON -

OIL AND GAS LEASING

FOR

REGULATIONS

TITLE 43--PUBLIC LANDS
INTERIOR

Chapter 1--Bureau of Land Management, Department of the Interior

Circular 2037

PART 192--OIL AND GAS LEASES

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AUTHORITY: §§ 192.1 to 192.161 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189.

SOURCE: §§ 192.1 to 192.161 appear at 19 F. R. 9011, Dec. 23, 1954, except as otherwise noted.

GENERAL PROVISIONS

§ 192.1 *Applicability of amendatory act to existing leases.* Prior to the filing of the notice of election hereinafter referred to, the act of August 8, 1946 (60 Stat. 950; 30 U. S. C. 181) applies to leases issued prior to the date of that act only where the amendatory act so provides. The owner of any lease issued prior to August 8, 1946, may elect pursuant to section 15 to come entirely under the provisions of that act by filing a notice of election to have his lease governed by the amendatory act, accompanied by the consent of the surety if there is a bond covering the lease. A notice of election so filed shall constitute an amendment of all provisions of the lease to conform with the provisions of the amendatory act and the regulations issued hereunder.

§ 192.2 *Helium.* The ownership of and the right to extract helium from all gas produced from lands leased or otherwise disposed of under the act have been reserved to the United States. Appropriate provision is made in leases with respect to the recovery of helium.

§ 192.3 *Acreage limitations ~~on leases~~.*

(a) No person, association, or corporation, except as in the act provided, may hold more than 46,080 acres in any one State, or more than 100,000 acres in Alaska, whether directly through the ownership of leases or interests in leases and applications, or offers therefor or indirectly as a member of an association or associations, or as a stockholder of a corporation or corporations, holding leases or interests therein and applications or offers therefor. Leases or offers or applications for leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall not be included in computing accountable acreage. Leases or offers or applications for leases subject to an operating, drilling, or development contract approved by the Secretary of the Interior pursuant to section 17(b) of the act, other than communitization agreements, shall be excepted in determining the accountable acreage of the lessees or operators. Where, as the result of the termination or contraction of a unit or cooperative plan, or the elimination of a lease from an operating, drilling, or development plan, a party holds or controls excess accountable acreage, such party shall have 30 days from such termination or contraction or elimination in which to

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reduce his holdings to the prescribed limitation and to file proof of such reduction in the proper land office.

(b) In computing acreage holdings or control, the accountable acreage of a party owning an undivided interest in a lease shall be such party's proportionate part of the total lease acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be his proportionate part of the corporation's or association's accountable acreage. Parties owning a royalty or other interest determined by or payable out of a percentage of production from a lease will be charged with a similar percentage of the total lease acreage.

(c) No lease will be issued and no transfer or operating agreement will be approved until it has been shown that the offeror, transferee, or operator is entitled to hold the acreage or obtain the operating rights.

(d) At any time upon request by the authorized officer of the Bureau of Land Management, the record title holder of any lease or a lease operator or a lease offeror may be required to file in the appropriate land office a statement, showing as of a specified date the serial number and the date of each lease of which he is the record holder, or under which he holds operating rights, and each application or offer for lease held or filed by him in the particular State setting forth the acreage covered thereby, and the nature, extent and acreage interest, including royalty interests held by him in any oil and gas lease of which the reporting party is not the lessee of record, whether by corporate stock ownership, interest in unincorporated associations and partnerships, or in any other manner.

(e)(1) If any person holding or controlling only leases or interests in leases is found to hold accountable acreage in violation of the provisions of this section and of the act, the last lease or leases or interest or interests acquired by him which created the excess acreage holding shall be cancelled or forfeited in their entirety, even though only part of the acreage in the lease or interest constitutes excess holding, unless it can be shown to the satisfaction of the Director of the Bureau of Land Management that the holding or control of the excess acreage is not the result of negligence or willful intent, in which event the lease or leases shall be cancelled only to the extent of the excess acreage.

(2) If any person holding or controlling leases or interests in leases only, or applications or offers for leases only, or both leases or interest in leases and applications or offers, below the acreage limitation provided in this section, files an application or offer, or a group of applications or offers (filed simultaneously), which causes him to exceed the acreage limitation, the application or offer, or group of applications or offers, causing the excess holding, will be rejected in its entirety.

(3) If any person holding or controlling both leases or interests in leases and applications or offers for leases, or only applications or offers for leases below the acreage limitation provided in this section, acquires a lease or leases, or interests therein, which cause him to exceed the acreage limitation, his most recently filed application or offer, or applications or offers, then containing acreage in excess of the limitation provided in this section will be rejected in its or their entirety. For the purpose of this subparagraph, time of filing shall be determined by the time of filing marked on the application or offer or, if the same time is marked on two or more applications or offers, by the serial number of the applications or offers.

(4) The provisions of this paragraph shall not limit any action which the Department may take with respect to excess acreage holdings in cases not otherwise covered by this paragraph.

§ 192.4 *Acreage limitations on options.*

(a) Acreage held under a nonrenewable option, valid only for three years or such longer period as may be authorized by the Secretary, shall not be chargeable under § 192.3, but no optionee may hold options on leases or offers to lease at any one time for more than 200,000 acres in any one State.

(b) No such option shall be taken for more than three years without the prior approval of the Secretary of the Interior, except that an option hereafter taken on a lease application or offer may be for the period of time until issuance of the lease and three years thereafter. Where it is sought to obtain options for periods in excess of those provided in the preceding sentence, an application should be filed with the Director, Bureau of Land Management, accompanied by a complete showing as to the special or unusual circumstances which are believed to justify approval of the application by the Secretary.

(c) Within the meaning of this section, options may be taken only on lands embraced in leases and offers or applications for leases and the acreage included in any such option taken upon an application or offer for a lease shall be chargeable from and after the date of such option.

(d) It shall be permissible for any such option to provide that where all or any part of the land covered thereby is included in a cooperative or unit plan (as defined in § 192.20) duly executed by the parties and submitted to the Secretary for final approval prior to the expiration of the three-year option period, then, as to that part of the land covered by said option which is included in said cooperative or unit plan, such option shall not expire until a date 30 days after the date of final approval or disapproval by the Secretary of that cooperative or unit plan.

(e) Each optionee must file in the appropriate land office within 90 days after June 30 and December 31 of each year duplicate statements under oath, showing as of the prior June 30 and December 31, respectively (1) name of optioner and serial number of lease, application or offer for lease subject to option; (2) date and expiration date of each option; (3) number of acres covered by each option, and (4) aggregate number of options held in each State, and total acreage thereof. Options statements covering lands in the State of California shall be filed in the land office at Sacramento, California, and statements covering lands in Alaska shall be filed in the land office at Anchorage, Alaska.

(f) If the statement shows or it is otherwise ascertained that the optionee holds options in excess of the prescribed limitation, he will be given 30 days within which to file proof of reduction of his option holdings to the limitations prescribed by the act.

§ 192.5 *Lands within one mile of naval petroleum or helium reserves.* No oil and gas lease will be issued for land within one mile of the exterior boundaries of a naval petroleum or a helium reserve, unless the land is being drained of its oil or gas deposits or helium content by wells on privately owned land or unless it is determined by the authorized officer, after consultation with the agency exercising jurisdiction over the reserve, that operations under such a lease will not adversely affect the reserve through drainage from known productive horizons.

§ 192.6 *Boundaries of known geologic structures and productive limits of producing oil or gas fields and deposits.* The Director of the Geological Survey will determine the boundaries of the known geologic structures of producing oil or gas fields and, where necessary to effectuate the purposes of the act, the productive limits of producing oil or gas deposits as such limits existed on August 8, 1946. Maps or diagrams showing the boundaries of known geologic structures of producing oil or gas fields and of the productive limits of producing oil or gas deposits will be placed on file in the appropriate land office, and office of the oil and gas supervisor. Any lessee or his operator may apply to have a determination made as to whether or not the land upon which he intends to drill a well is inside or outside the productive limits of a producing oil or gas deposit. The application should be accompanied by all available geologic data which in his opinion have a bearing on the matter.

§ 192.7 *Agreements to compensate for drainage.* Upon a determination by the Director of the Geological Survey that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, the authorized officer of the Bureau of Land Management, may execute agreements with the owners of adjacent lands whereby the United States, or the United States and its lessees, shall be compensated for such drainage, such agreements to be made

with the consent of any lessee affected thereby. The precise nature of any agreement will depend on the conditions and circumstances involved in the particular case.

§ 192.8 *Protection of leased lands from drainage.* (a) Where land in any lease is being drained of its oil or gas content by a well either on a Federal lease issued at a lower rate of royalty or on land not the property of the United States, the lessee must drill and produce all wells necessary to protect the leased lands from drainage. In lieu of drilling such wells, the lessee may, with the consent of the Director of the Geological Survey, pay compensatory royalty in the amount determined in accordance with 30 CFR 221.21.

(b) The payment of compensatory royalty under this section or § 192.7 shall extend the primary or extended term of any lease for the period during which such compensatory royalty is paid, and for a period of one year from the discontinuance of such payment, and for so long thereafter as oil or gas is produced in paying quantities.

§ 192.9 *Leasing of wildlife refuge lands, game range lands and coordination lands*—(a) *Definitions*—(1) *Wildlife refuge lands.* Such lands are those embraced in a withdrawal of public domain and acquired lands of the United States for the protection of all species of wildlife within a particular area. Sole and complete jurisdiction over such lands for wildlife conservation purposes is vested in the United States Fish and Wildlife Service even though such lands may be subject to prior rights for other public purposes or, by the terms of the withdrawal order, may be subject to mineral leasing.

(2) *Game range lands.* Game ranges created by a withdrawal of public lands and reserved for dual purposes, namely protection and improvement of the public grazing lands and natural forage resources and conservation and development of natural wildlife resources, are under the joint jurisdiction of the Bureau of Land Management and the United States Fish and Wildlife Service.

(3) *Coordination lands.* These lands are withdrawn or acquired by the Government and made available to the States by cooperative agreements entered into between the United States Fish and Wildlife Service and the game commissions of the various States, in accordance with the act of March 10, 1934 (48 Stat. 401), as amended by the act of August 14, 1946 (60 Stat. 1080), or by long-term leases or agreements between the Department of Agriculture and the game commissions of the various States pursuant to the Bankhead-Jones Farm Tenant Act (50 Stat. 525), as amended, where such lands were subsequently transferred to the Department of the Interior, with the United States Fish and Wildlife Service as the custodial agency of the Government.

(4) *Alaska wildlife areas.* Such lands are areas in Alaska created by a withdrawal of public lands for the management of natural wildlife resources and administered by the United States Fish and Wildlife Service.

(b) *Leasing policy and procedure.* (1) No offers for oil and gas leases covering wildlife refuge lands will be accepted and no leases covering such lands will be issued except as provided in subparagraph (2) of this paragraph.

(2) In instances where it is determined by the Geological Survey that any of the lands mentioned in paragraph (a) (1), or any of the lands mentioned in paragraph (a) (2), (3) and (4) of this section and defined in this section as not available for leasing are subject to drainage, the Bureau of Land Management, with the concurrence of the United States Fish and Wildlife Service, will process an offering inviting competitive bids in accordance with the then existing regulations relating to competitive oil and gas leasing. Such leases shall be issued only upon approval by the Secretary of the Interior and shall contain such stipulations as are necessary to assure that leasing activities and drilling shall be carried out in such a manner as will result in a minimum of damage to wildlife resources.

(3) As to game range lands and Alaska wildlife areas, representatives of the appropriate office of the Bureau of Land Management and the United States Fish and Wildlife Service will confer for the purpose of entering into an agreement specifying those lands which shall not be subject to oil and gas leasing. No such agreement shall become effective, however, until approved by the Secretary of the Interior. As to coordination lands, representatives of the Bureau of Land Management and the United States Fish and Wildlife Service will, in cooperation with the authorized members of the various State game commissions, confer for the purpose of determining by agreement those lands which shall not be subject to oil and gas leasing.

(4) The remaining lands in paragraph (a) (2) and (4) of this section not closed to oil and gas leasing will be subject to leasing on the imposition of such stipulations agreed upon by the Fish and Wildlife Service and the Bureau of Land Management. The remaining lands in paragraph (a) (3) of this section not closed to oil and gas leasing will be subject to leasing on the imposition of such stipulations agreed upon by the State Game Commission, the United States Fish and Wildlife Service, and the Bureau of Land Management.

(c) *Publication and filing of agreements; filing of lease offers.* The agreements referred to in paragraph (b) (3) of this section shall be published in the FEDERAL REGISTER and shall contain a description of the lands affected thereby which are not subject to oil and gas leasing, together with a statement of the stipulations agreed upon by the parties thereto for inclusion in such leases to assure that all operations under the lease shall be carried out in such a manner as will result in a minimum of damage to wildlife resources. The agreements, as supplemented by maps or plats specifically delineating the lands will be filed in the appropriate land offices of the Bureau of Land Management where they may be inspected by the public at the usual hours specified for that purpose. Lease offers for such lands will not be accepted for filing until the tenth day after the agreements and supplemental maps or plats are noted on the land office records.

(d) *Suspension of pending applications.* All pending offers or applications heretofore filed for oil and gas leases covering game ranges, coordination lands, and Alaska wildlife areas, will continue to be suspended until the agreements referred to in paragraph (b) (3) of this section shall have been completed.

(e) *Lands in requested withdrawal.* All existing offers or applications for oil and gas leases covering lands included in requests for withdrawals for wildlife refuges, game ranges, coordination lands or Alaska wildlife areas, as defined herein, shall be suspended until after the consummation of the withdrawal, and thereafter such offers shall be considered in accordance with the provisions of this section.

COOPERATIVE CONSERVATION PROVISIONS

§ 192.20 *Cooperative or unit plans.*[1] The act authorizes lessees and their representatives to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of such pool, field, or like area is then subject to any cooperative or unit plan of development or operation). The agreement must be for the purpose of more properly conserving the natural resources of any such oil or gas pool, field, or area covered thereby and must be determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary, with the consent of the lessees, is authorized to establish, alter, change or revoke drilling, producing, rental, minimum royalty, and royalty requirements of the leases and to make such regulations with reference to such leases as he may deem necessary or proper to secure the protection of the public interest. All leases committed to any unit or cooperative plan approved or prescribed by the Secretary of the Interior shall be excepted in determining acreage charges.

§ 192.21 *Application for approval of plan.* The procedure in obtaining approval of a cooperative or unit plan of development including suggested text of an agreement acceptable to the Department is contained in 30 CFR Part 226, "Unit or Cooperative Agreements". All applications to unitize and all documents incident thereto shall be filed in the office of the oil and gas supervisor, Geological Survey, for the region in which the unit area is situated.

§ 192.22 *Communitization or drilling agreements.* (a) The Secretary is authorized when separate tracts under lease cannot be independently developed and operated in conformity with an established well-spacing or well-development program, to approve communitization or drilling agreements for the lease

[1] For the extension of leases committed to a unit plan, see § 192.122.

or any portion thereof with other lands, whether or not owned by the United States, when in the public interest. Operations or production pursuant to such an agreement shall be deemed to be operations or production as to each lease committed thereto.

(b) Preliminary requests to communitize separate tracts shall be filed in triplicate with the oil and gas supervisor and executed agreements shall be submitted in sufficient number to permit retention of five copies by the Department after approval.

(c) The agreement shall describe the separate tracts comprising the drilling or spacing unit, shall show the apportionment of the production or royalties to the several parties and the name of the operator, and shall contain adequate provisions for the protection of the interests of all parties, including the United States. The agreement must be signed by or in behalf of all necessary parties and will be effective only after approval by the Secretary of the Interior as provided therein.

§ 192.23 *Approval of operating, drilling, or development contracts without regard to acreage limitations.* (a) The authority of the Secretary to approve operating, drilling, or development contracts without regard to acreage limitations ordinarily will be exercised only to permit operators or pipe-line companies to enter into contracts with a number of lessees sufficient to justify operations on a large scale for the discovery, development, production, or transportation of oil or gas and to finance the same.

(b) A contract submitted for approval under this provision should be filed with the appropriate land office manager, Bureau of Land Management, together with enough copies to permit retention of 5 copies by the Department after approval. It should be accompanied by a statement showing all the interests held by the contractor in the area or field and the proposed or agreed plan of operation or development of the field. All the contracts held by the same contractor in the area or field should be submitted for approval at the same time, and full disclosure of the project made. Complete details must be furnished in order that the Secretary may have facts upon which to make a definite determination in accordance with the provisions of the act, and prescribe the conditions on which approval of the contracts is made.

§ 192.24 *Combinations for joint operation of refinery, or for transportation of oil.* Upon obtaining the approval of the Secretary, lessees may combine their interests in leases for the purpose of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells or from the wells of other lessees, or to increase the acreage which may be acquired or held under the provisions of section 17 of the act relating to competitive leases. An application under this section, together with enough copies to permit retention of 5 copies by the Department after approval should be filed with the Director, Bureau of Land Management. The application must show a reasonable need for the combination and that it will not result in any concentration of control over the production or sale of oil and gas which would be inconsistent with the anti-monopoly provisions of the law.[2]

§ 192.25 *Subsurface storage of oil or gas.* (a) In order to avoid waste or to promote conservation of natural resources, the Secretary of the Interior, upon application by the interested parties, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under the act. Such authorization will provide for the payment of such storage fee or rental on the stored oil or gas as may be determined adequate in each case, or, in lieu thereof, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease used for the storage of oil or gas shall be extended for the period of such storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(b) Applications for subsurface storage shall be filed in triplicate with the oil and gas supervisor and shall disclose the ownership of the lands involved, the parties in interest, the storage fee, rental, or royalty offered to be paid for such storage and all essential information showing the necessity for such project. Enough copies of the final agreement signed by the parties in interest shall be submitted for the approval of the Secretary to permit retention of 5 copies by the Department after approval.

ISSUANCE OF LEASES

§ 192.40 *Classes and term.*

All lands subject to disposition under the act which are known or believed to contain oil or gas may be leased by the Secretary of the Interior. When within the known geologic structure of a producing oil or gas field, such land may be leased only by competitive bidding and in units of not exceeding 640 acres to the highest responsible qualified bidder at a royalty of not less than 12½ per cent. Leases for not to exceed 2,560 acres, except where the rule of approximation applies, entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width, may be issued for all other land subject to the act to the first qualified offeror at a royalty of 12½ per cent. All leases, except those issued as renewals of 20-year leases, will be issued for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities.

§ 192.40a *Dating of competitive and noncompetitive oil and gas leases.* All competitive and noncompetitive oil and gas leases, excepting renewal leases, will be dated as of the first day of the month following the date the leases are signed on behalf of the lessor except that where prior written request is made a lease may be dated the first of the month within which it is so signed.

§ 192.41 *Leases for lands wholly or partly within unit areas.* (a) Before issuance of an oil and gas lease for lands within an approved unit agreement, the lease applicant or offeror or successful bidder will be required to file evidence that he has entered into an agreement with the unit operator for the development and operation of the lands in his lease under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, he will be permitted to operate independently but will be required to conform to the terms and provisions of the agreement with respect to such operations.

(b) In case an application or offer for a noncompetitive lease embracing lands partly within and partly without the exterior boundaries of a unitized area is found acceptable, separate leases will be issued, one embracing the lands within the unit area, and one the lands outside of such area.

NONCOMPETITIVE LEASES

§ 192.42 *Offer to lease, and issuance of lease.* (a) To obtain a non-competitive lease an offer to accept such lease must be made on Form 4–1158, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: *Provided,* That the copies are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. Form 4–1158 or a valid reproduction of the official form will also constitute the lease when signed by the Manager of the Land Office.

(b) Five copies of Form 4–1158, or valid reproduction thereof, for each offer to lease shall be filed in the proper land office, or for land or deposits in States for which there are no land offices, with the Director of the Bureau of Land Management, Washington 25, D. C.[3] If less than five copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period, the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form

[2] Rights-of-way for oil and gas pipe lines may be granted as provided for in §§ 244.60 to 244.66 of this chapter.

[3] Offers for lands or mineral deposits in the following States should be filed at the land office named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma at Santa Fe, New Mexico.

in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

(c) The offeror shall mark one of the copies first filed at the top with the word "original." If that is not done, the manager will so mark one copy. If there is any variation in the land descriptions among the five copies, the copy marked "original" shall govern as to the lands covered by the lease.

(d) Each offer must be filled in by typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for the benefit of a non-alien minor or minors but an offer may not be filed by a minor. An offer may not include more than 2,560 acres except where the rule of approximation applies. The lands in the offer must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. No offer may be made for less than 640 acres except where the offer is accompanied by a showing that the lands are in an approved unit or cooperative plan of operation or such a plan which has been approved as to form by the Director of the Geological Survey, or where the land is surrounded by lands not available for leasing under the act.

(e) Each offer, when first filed, shall be accompanied by:

(1) A filing fee of $10 which will be retained as a service charge, except as provided in paragraph (g) of this section, even though the offer should be rejected or withdrawn in whole or in part.

(2) Full payment of the first year's rental based on the total acreage if known, and if not known, on the basis of 40 acres for each smallest legal subdivision.

(3) (i) Except in a case where an officer of a corporation signs an offer on behalf of the corporation (as to which see paragraph (f) of this section), evidence of the authority of the attorney in fact or agent to sign the offer and lease, if the offer is signed by such attorney or agent on behalf of the offeror.

(ii) If such offeror is an individual, a statement over the offeror's signature setting forth the offeror's citizenship and whether the offeror's direct and indirect interests in oil and gas leases, applications, and offers therefor, exceed 46,080 chargeable acres in the same State, or exceed 100,000 acres in Alaska.

(iii) A signed statement by the offeror that he is the sole party in interest in the offer and the lease, if issued; if not he shall set forth the names and the nature and extent of the interest therein of the other interested parties, the nature of the agreement between them, if oral, and a copy of such agreement, if written. Such statement must be signed by all of the interested parties including the offeror, and all interested parties must furnish evidence of their qualifications to hold such lease interests. Such statement must be filed not later than 15 days after the filing of the lease offer.

(4) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in an operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers therefor exceeds 46,080 chargeable acres in the same State, or exceeds 100,000 acres in the Territory of Alaska. This requirement does not apply in cases in which the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or a stockholder in the corporation.

(5) If the offer is made by a guardian or trustee, a certified copy of the court order authorizing him to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; his statements as to the citizenship and holdings of each of the minors; and a similar statement as to his own citizenship and holdings under the leasing act, including his holdings for the benefit of other minors.

(6) If the offer is made by an association (including a partnership), it must be accompanied by a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph, an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description does not comply with the requirements of § 192.42a or the lands are not entirely within an area of six miles square or an area of six surveyed sections in length or width.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies or is less than 640 acres or the equivalent of a section and is not within the exceptions in paragraph (d) of this section.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than five copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) and (e) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless

within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(h) An offer may not be withdrawn, either in whole or in part, unless the withdrawal is received by the land office before the lease, an amendment of the lease, Form 4–1163, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(i) The United States will indicate its acceptance of the lease offer, in whole or in part, and the issuance of the lease by the signature of the appropriate officer thereof in the space provided. An executed copy of the lease will be mailed to the offeror at the address of record.

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless before the issuance of the amendment to Form 4–1158 the land office receives a withdrawal of the offer as to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on Form 4–1158 describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a.

(k) A transfer of the whole interest in all or any part of the offer may be approved as an incident to the transfer, by assignment or otherwise, of the whole interest in all or any part of the lease. A transfer of an undivided fractional interest in the whole offer may be approved as an incident to the transfer of an undivided fractional interest in the whole lease. An application for approval of a transfer of an offer must include a statement that the transferee agrees to be bound by the offer to the extent that it is transferred and must be signed by the transferee. In other instances transfers of an offer will not be approved prior to the issuance of a lease for the lands or deposits covered by the said transfers.

(l) If an offeror dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed, and if probate has been completed, or is not required, to the heirs or devisees, provided there is filed in all cases an offer to lease in compliance with the requirements of this section which will be effective as of the effective date of the original application or lease offer filed by the deceased. If there are any minor heirs or devisees, such offer can only be made by their legal guardian or trustee in his name. Each such offer must be accompanied by the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person who as executor or administrator submits the offer, and bond form if a bond is required, has authority to act in that capacity and to sign the offer and bond forms.

(ii) A statement over the signature of each heir or devisee, similar to that required of an offeror under paragraph (e) (4) of this section concerning citizenship and holdings.

(iii) Evidence that the heirs or devisees are the heirs or devisees of the deceased offeror and are the only heirs or devisees of the deceased.

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the offeror and the provisions of the law of the deceased's last domicile showing that no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to holdings and citizenship, similar to that required under paragraph (e) (4) of this section, except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(m) No lease shall be issued before final action has been taken on (1) any prior offer to lease the land, (2) any subsequent offer to lease the land that is based upon an alleged preferential right, and (3) any petition for the renewal or reinstatement of an existing or former lease on the land. If a lease is issued before final action has been taken on such an offer or petition, it shall be canceled, after due notice to the lessee, if the offeror or petitioner is found to be qualified and entitled to receive a lease on the land.

§ 192.42a Description of lands in offer.

(a) If the lands have been surveyed under the public land rectangular system, each offer must describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each offer must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the U.S. Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

(b) In lease offers embracing unsurveyed public lands adjacent to tidal waters in southern Louisiana and in Alaska, if the offeror finds it impracticable to furnish a metes and bounds description, as required in paragraph (a) of this section with respect to the water boundary, he may, at his option, extend the boundary of his offer into the water a distance sufficient to permit complete enclosure of the water boundary of his offer by a series of courses and distances in cardinal directions (the object being to eliminate the necessity of describing the meanders of the water boundary of the public lands included in the offer). The description in the lease offer shall in all other respects conform to the requirements of paragraph (a) of this section. Such description would not be deemed for any purpose to describe the true water boundaries of the lease, such boundaries in all cases being the ordinary high water mark of the navigable waters. The land boundaries of such over-all area shall include only the public lands embraced in the offer. The offeror shall agree to pay rental on the full acreage included within the description with the understanding that rights under any lease to be issued on that offer will apply only to the areas within that

description properly subject to lease under the act, but that the total area described will be considered as the lease acreage for purposes of rental payments, acreage limitations under § 192.3, and the maximum or minimum area to be included in a lease pursuant to § 192.42 (d). The tract should be shown in outline on a current quadrangle sheet published by the United States Geological Survey or such other map as will adequately identify the lands described.

(c) When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all offers to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys.

(d) The descriptions in leases issued pursuant to offers filed after the effective date of this section will be conformed to the subdivisions of the approved protracted surveys if and when such surveys have been adopted for the area; and the description and acreage of leases issued pursuant to offers filed after the effective date of this section will be adjusted to the official public land surveys when such surveys have been extended over the leased area.

§ 192.43 Availability of lands to further lease offers where noncompetitive lease expires, is cancelled, relinquished or terminated.

(a) Lands in cancelled or relinquished leases or in leases which terminate by operation of law for non-payment of rental pursuant to 30 U.S.C. sec. 188, which are not withdrawn from leasing nor on a known geological structure of a producing oil and gas field shall be subject to the filing of new lease offers only after notation on the official record of the cancellation, relinquishment, or termination of such lease and only in accordance with the provisions of this section. All lands covered by leases which expire by operation of law at the end of their primary or extended terms shall likewise be subject to the filing of new lease offers only in accordance with the provisions of this section except that notation of such expiration of the leases need not be made on the official records.

(b) On the third Monday of each month or the first working day thereafter if the land office is not officially open for business on the third Monday, the authorized officer of the Bureau of Land Management will post on the bulletin board in each land office a list by subdivision, section, township and range if surveyed or officially protracted, or, if unsurveyed, by the metes and bounds description of the lands in leases which expired, were cancelled, relinquished in whole or in part, or terminated and which will become subject to leasing at 10 o'clock a.m. on the fifth working day thereafter together with a notice stating that the lands in such leases are subject to simultaneous filings of lease offers from the time of such posting until 10 o'clock a.m. on the said fifth working day thereafter.

(c) Each offer to lease must conform with the acreage requirements of § 192.42(d), and must be accompanied by separate checks covering the filing fee and advance rental payment required by the regulations in this chapter. Any offer not so submitted will not be accepted for filing.

(d) If more than one offer to lease all or any part of the acreage covered by an expired, cancelled, relinquished, or terminated lease is filed during the period provided for in paragraph (b) of this section, their priorities will be determined by a public drawing in accordance with § 295.8 of this chapter.

(e) Offers to lease which cover lands not within the foregoing categories and which are received in the same mail or over the counter at the same time, will be considered as having been filed simultaneously and priority to the extent of the conflicts between them will be determined by a public drawing in accordance with the provisions of § 295.8 of this chapter.

(f) If no offers to lease all or any portion of the lands in the expired, cancelled, relinquished or terminated leases are received during the period provided for in paragraph (b) of this section the lands for which no offers are received will thereafter become subject to lease in accordance with regulations in this part.

§ 192.44 *Pending applications.* Applications filed prior to the effective date of the regulations in this part will be processed in accordance with the regulations in effect immediately prior to such date and leases will continue to be issued in such cases on Form 4–213, except:

(a) An applicant may, without losing his priority, file Form 4–1158 "Offer and Lease Form" for the land described in his application, pursuant to § 192.42, but without paying the required filing fee, and

(b) From the date of issuance of the regulations in this part until their effective date, Form 4–1158, or unofficial copies thereof, which are exact reproductions on one page of both sides of the official approved one page form, if available, may be filed instead of filing new applications under the prior regulations.

COMPETITIVE LEASES

§ 192.50 *Designation and offer of lands for lease by competitive bidding.* The lands and deposits subject to disposition under the act which are within the known geologic structure of a producing oil or gas field will be divided into leasing blocks or tracts in units of not exceeding 640 acres each, which shall be as nearly compact in form as possible, and offered for lease at a royalty and rental to be specified in the notice of sale, to the qualified person who offers the highest bonus by competitive bidding either at public auction, or by sealed bids as provided in the notice of sale.

§ 192.51 *Notice of lease offer.* Notice of the offer of lands for lease will be by publication once a week for five consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated, or in such other publications as the authorized officer of the Bureau of Land Management may authorize. The notice published in a newspaper of general circulation in the county will contain a statement that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of that notice which shall be that portion of the total advertising cost that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared. The notice will also state the time and place of sale, the manner in which bids may be submitted, the description of the lands, and the terms and conditions of the sale.

§ 192.52 *Qualifications of successful bidder.* The successful bidder at a sale by public auction must on the day of the sale, deposit with the manager of the land office or other officer conducting the sale, and each bidder, if the sale is by sealed bids, must submit with his bid the following: Certified check on a solvent bank, money order, or cash, for one-fifth of the amount bid by him and a statement over the bidder's own signature with respect to citizenship and interests held, similar to that required of an offeror under § 192.42 (e) (3). If the successful bidder is a corporation, it must also file a statement similar to that required by § 192.42 (f).

§ 192.53 *Award of lease.* Following receipt of the report of the auction, or the opening of the sealed bids, the authorized officer, subject to his right to reject any or all bids, will award the lease to the successful bidder. Notice of his action will be forthwith transmitted to the interested parties through the local office. If the lease be awarded, three copies of the lease will be sent to the successful bidder and he will be required within 30 days from receipt thereof to execute them, pay the balance of his bonus bid, the first year's rental, and file a bond as required in § 192.100. If any bid be rejected, the deposit will be returned. If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed

of as other receipts under this act. If the lease awarded to the successful bidder is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease.

If two or more units are awarded to any bidder, such units, where the acreage does not exceed 640 acres, may be included in a single lease if circumstances warrant.

§ 192.54 *Form of lease.* Competitive leases will be issued on Form 4–213 and the rentals and royalties payable thereunder will be set forth in Schedule "B" affixed thereto and made a part thereof.

EXCHANGE AND RENEWAL LEASES

§ 192.60 *Application to exchange lease for a new lease.* Any lease which issued for a term of 20 years, or any renewal thereof, or which issued in exchange for a 20-year lease prior to August 8, 1946, may be exchanged for a new lease. Such new lease will be issued for a primary term of 5 years and so long thereafter as oil or gas is produced in paying quantities and will contain the rental and royalty rates prescribed in §§ 192.80, 192.81 and 192.82. An application to exchange a lease for a new lease should be filed in triplicate by the lessee with the manager of the appropriate land office and must show full compliance by the applicant with the terms of the lease and applicable regulations.

§ 192.61 *Application for renewal.* (a) Twenty year leases or renewals thereof may be renewed for successive terms of 10 years at the rental and royalty rates specified for such renewal leases in §§ 192.80, 192.81 and 192.82. An application to renew should be filed in triplicate, in the proper office as prescribed in § 192.42 (b), at least 90 days, but not more than six months, prior to the expiration of its term. Such application should be made by the record title holder or holders of the lease and may be joined in or consented to by the operator of record. The application should show whether all moneys due the United States have been paid and whether operations under the lease have been conducted in accordance with the regulations of the Department.

(b) The applicant or his operator shall furnish in triplicate with the application for renewal, copies of all agreements not theretofore filed providing for overriding royalties or other payments out of production from the lease which will be in existence as of the date of its expiration. When such payments, including overriding royalties, are in excess of 5 per cent of gross production a detailed statement of the income from and costs of operation of the lease for the twelve month period immediately preceding the month in which the application for renewal is filed must also be furnished.

§ 192.62 *Action on application.* If the outstanding obligations in excess of five per cent of gross production payable from production do not constitute a burden on the lease prejudicial to the interests of the United States, they will not be considered a bar to its renewal but any lease that may be issued will be upon the condition, to be incorporated in the lease, that if and when the costs of operations, including the payment of overriding royalties or payments out of production, shall be determined by the authorized officer of the Bureau of Land Management to constitute such a burden such royalties and payments shall be reduced to not more than 5 per cent of the value of the production. If no objection to the renewal of the lease appears, copies of a renewal lease, in triplicate, dated the first day of the month in which the original lease terminated, will be forwarded to the lessee for execution. If upon receipt of the executed lease forms and a satisfactory lease bond, the lease is executed, one copy thereof will be delivered to the lessee.

If a determination is made that overriding royalties and payments out of production in excess of 5 percent of gross production constitute a burden on lease operations to the extent that proper and timely development will be retarded, or continued operation of the lease impaired, or premature abandonment of the wells caused, the lease application will be suspended and the parties in interest will be offered an opportunity to reduce the excessive overriding royalties or other payments out of production to not more than 5 percent of the value of the production. If the holders of outstanding overriding royalty or other interests payable out of production, the operator, and the lessee are unable to enter into a mutually fair and equitable agreement, any of the parties may apply for a hearing at which all interested parties may be heard and written statements presented. Thereupon a final decision will be rendered by the Department outlining the conditions acceptable to it as a basis for a fair and reasonable adjustment of the excessive overriding royalties and other payments out of production, and an opportunity will be afforded within a fixed period of time to submit proof that such adjustment has been effected. Upon failure to submit such proof within the time so fixed, the application for renewal will be denied.

§ 192.63 *Form of lease.* Renewal and exchange leases will be issued on Form 4–213. The rentals and royalties payable thereunder will be set out on Schedule C or D as may be appropriate, which schedule is attached thereto and made a part thereof.

LEASE ON PATENTED OR ENTERED LAND

§ 192.70 *Preference right of patentee or entryman to a lease.* (a) An entryman or patentee who made entry prior to February 25, 1920, or an assignee of such entryman or a vendee of such patentee if the assignment or conveyance was made prior to January 1, 1918, for lands not withdrawn or classified or known to be valuable for oil and gas at date of entry shall be entitled, if the entry or patent is impressed with a reservation of the oil or gas, to a preference right to a lease for the land. A settler whose settlement was made prior to February 25, 1920, on land in the same status but which has since been withdrawn, classified, or is known to contain oil or gas, also has such a preference right.

(b) Any offeror for a lease to lands owned, entered or settled upon as stated above must notify the person entitled to a preference right of the filing of the offer and of the latter's preference right for 30 days after notice to apply for a lease. If the party entitled to a preference right files a proper offer within the 30-day period, he will be awarded a lease; but if he fails to do so, his rights will be considered to have terminated.

§ 192.71 *Lands in entries or claims not impressed with a reservation of oil and gas.* (a) Where an offer is filed to lease lands noncompetitively in an entry or settlement claim not impressed with an oil or gas reservation, the offer will be rejected unless it is found that the land is prospectively valuable for oil or gas. An offeror for a lease for land already embraced in a nonmineral entry without a reservation of the mineral, and likewise a nonmineral entryman or settler who is contending that the land is nonmineral in character should submit with their respective offer and application, showings of as complete and accurate geologic data as may be procurable, preferably the reports and opinions of qualified experts.

(b) Should the land be found to be prospectively valuable for oil or gas, the entryman or settler will be required to consent to a reservation of the oil or gas to the United States or to contest the mineral finding. If he does neither, the entry will be canceled or his settlement rights denied. If he consents, or contests the finding and is unsuccessful, a lease will be granted to the offeror, unless the entryman or settler has a preference right, but if the entryman or settler prevails in a contest, the offer will be rejected.

§ 192.72 *Showing required of oil and gas offerors for unsurveyed lands.* Every offeror for oil and gas lease for unsurveyed lands, must state in his offer that there are no settlers upon the land, or if there be settlers, give the name and post office address of each and a description of the lands claimed, by metes and bounds and approximate legal subdivisions.

§ 192.80 *Rentals.* Rentals shall be payable in advance at the following rates:

(a) On noncompetitive leases issued under section 17 of the act, wholly outside of the known geologic structure of a producing oil or gas field:

(1) For the first lease year, 50 cents per acre or fraction thereof, except as to Alaska where the rate shall be 25 cents per acre or fraction thereof.

(2) For the second and third lease years, no rental.

(3) For the fourth and fifth years, 25 cents per acre or fraction thereof.

(4) For the sixth and each succeeding year, 50 cents per acre or fraction thereof, except as to Alaska where the rate shall be 25 cents per acre or fraction thereof.

(b) On leases wholly or partly within the known geologic structure of a producing oil or gas field:

(1) If issued noncompetitively under section 17 of the act, and not committed to a cooperative or unit plan that contains a general provision for allocation of production, beginning with the first lease year after the expiration of thirty days notice to the lessee that all or part of the land is included in such a structure and for each year thereafter, prior to a discovery of oil or gas on the leased lands, rental of $1.00 per acre or fraction thereof.

(2) If issued noncompetitively under section 17 of the act, and committed to an approved cooperative or unit plan which includes a well capable of producing oil or gas and contains a general provision for allocation of production, the rental prescribed for the respective lease years in paragraph (a) of this section, shall apply to the acreage not within a participating area, except that the rental for the second and third lease years for such acreage shall be 25 cents per acre or fraction thereof.

(3) If issued competitively, an annual rental, prior to a discovery on the leased lands, of $1.00 per acre or fraction thereof, unless a different rate of rental is prescribed in the lease.

(c) On leases issued in any other way, an annual rental of $1.00 per acre or fraction thereof.

§ 192.81 *Minimum royalty.* On leases issued on or after August 8, 1946, and on those issued prior thereto if the lessee files an election under section 15 of the act of August 8, 1946, a minimum royalty of $1 per acre in lieu of rental, shall be payable at the expiration of each lease year after a discovery has been made on the leased lands, commencing with the lease year, beginning on or after the date of such discovery, except that on unitized leases the minimum royalty shall be payable only on the participating acreage. If the actual royalty paid during any year aggregates less than $1 per acre the lessee must pay the difference at the expiration of the lease year.

§ 192.82 *Royalty on production.* (a) On and after August 8, 1946, the following royalty rates shall be paid on the production removed or sold from leases:

(1) 12½ percent royalty on noncompetitive leases issued under section 17 of the act: *Provided, however,* That any holder of a lease for lands in Alaska who shall drill and make the first discovery of oil or gas in commercial quantities in any geologic structure shall pay a royalty on all production under the lease of 5 percent for 10 years following the date of such discovery and thereafter the royalty rate shall be 12½ percent. If such lease is committed to an approved unit or cooperative plan under which such a discovery is made, the 5 percent rate herein provided shall, for the purpose of computing royalty due the United States, inure to the benefit of all the land to which an allocation is made under such plan.

(2) Such rates as are prescribed in the notice of sale in the case of all leases thereafter issued by competitive bidding.

(3) 12½ percent on all leases theretofore issued, except competitive leases, and on exchange and renewal leases thereafter issued, as to production from

(i) Land determined by the Director, Geological Survey, not to be within the productive limits of any oil or gas deposit on August 8. 1946.

(ii) An oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease and which is determined by the Director, Geological Survey, to be a new deposit.

(iii) Or allocated to a lease pursuant to an approved unit or cooperative agreement from an oil or gas deposit which was discovered on unitized land after May 27, 1941, and determined by the Director, Geological Survey, to be a new deposit, but only if at the time of discovery the lease or, in the case of an exchange lease, the lease for which it was exchanged was committed to the agreement or was included in a duly executed and filed application for approval of the agreement.

(4) From lands within exchange and renewal leases not subject to subparagraph (3) of this paragraph the rate of royalty shall be identical to that prescribed in the prior lease, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States the royalty shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110 the royalty shall be 12½%.
Over 110 but not over 130 the royalty shall be 18% of all production.
Over 130 but not over 150 the royalty shall be 19% of all production.
Over 150 but not over 200 the royalty shall be 20% of all production.
Over 200 but not over 250 the royalty shall be 21% of all production.
Over 250 but not over 300 the royalty shall be 22% of all production.
Over 300 but not over 350 the royalty shall be 23% of all production.
Over 350 but not over 400 the royalty shall be 24% of all production.
Over 400 the royalty shall be 25% of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide, and all other natural gases and mixtures thereof, and on natural or casinghead gasoline and other liquid products obtained from gas; when the average production of gas per well per day for the calendar month does not exceed 5,000,000 cubic feet, 12½ percent; and when the production of gas exceeds 5,000,000 cubic feet, 16⅔ percent of the amount or value of the gas and liquid products produced.

(5) In the case of competitive leases, and other leases theretofore issued, insofar as subparagraphs (3) and (4) of this paragraph are inapplicable, the rates specified in the lease.

(b) The average production per well per day for oil and for gas shall be determined pursuant to 30 CFR Part 221, "Oil and Gas Operating Regulations."

(c) In determining the amount or value of gas and liquid products produced, the amount or value shall be net after an allowance for the cost of manufacture. The allowance for cost of manufacture may exceed two-thirds of the amount or value of any product only on approval by the Secretary of the Interior.

(d) The Secretary of the Interior may establish reasonable values for purposes of computing royalty on any or all oil, gas, natural gasoline, and other liquid products obtained from gas, due consideration being given to the highest price paid for a part or for a majority of production of like quality in the same field, to the price received by the lessee, to posted prices and to other relevant matters. In appropriate cases this will be done after notice to the parties and opportunity to be heard.

§ 192.83 *Limitation of overriding royalties.* An agreement creating overriding royalties or payments out of the production of oil which, when added to overriding royalties or payments out of production of oil previously created and to the royalty payable to the United States, aggregate in excess of 17½ percent shall be deemed a violation of the terms of the lease unless such agreement expressly provides that the obligation to pay such excess overriding royalty or payments out of production of oil shall be suspended when the average production of oil per well per day averaged on the monthly basis is 15 barrels or less. The

limitation on overriding royalties or payments out of production is not applicable to the production of gas.

BONDS

§ 192.100 *Amount of bonds required of lessee.* (a) The successful bidder for a competitive lease prior to the issuance of the lease must furnish a corporate surety bond in the sum of at least double the amount of the $1 per acre annual rental but in no case less than $1,000 nor more than $5,000, conditioned on compliance with all the terms of the lease, and such a bond must also be filed when all or any part of the land in a lease issued non-competitively is included within the limits of a known geologic structure of a producing oil or gas field.

(b) Until a general lease bond is filed a noncompetitive lessee will be required to furnish and maintain a bond in the penal sum of not less than $1,000 in those cases in which a bond is required by law for the protection of the owners of surface rights.

(c) All leases shall provide that where a $10,000 bond is not already being maintained a general lease bond in the penal sum of $10,000 conditioned upon compliance with all lease terms covering the entire leasehold, shall be furnished by the lessee prior to the beginning of drilling operations. An operator or, if there is more than one operator covering different portions of the lease, each operator may furnish a $10,000 general lease bond in his own name as principal on the bond in lieu of the lessee. Where there are one or more operator's bond affecting a single lease, each such bond must be conditioned upon compliance with all lease terms for the entire leasehold. Where a bond is furnished by an operator, suit may be brought thereon without joining the lessee if he is not a party to the bond. An operator's bond will not be accepted unless the operator holds an operating agreement which has been approved by the Department or has pending an operating agreement in proper condition for approval. The mere designation as operator will not suffice.

(d) Bonds shall be either corporate surety bonds or personal bonds except that bonds with individual sureties as provided in § 191.13 of this chapter may be furnished for the protection of the entryman or owner of surface rights. Personal bonds must be accompanied by a deposit of negotiable Federal securities in a sum equal at their par value to the amount of the bond and by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the conditions of the lease bond.

(e) In lieu of bonds required under any of the preceding paragraphs the holder of leases or of operating agreements approved by the Department or holder of operating rights by virtue of being designated operator or agent by the lessees pending departmental approval of operating agreements, may furnish a bond the amount of which must be $150,000 for full nationwide coverage under both the Mineral Leasing Act and the Mineral Leasing Act for Acquired Lands of 1947 (61 Stat. 913; 30 U. S. C. 351–369), or at the rate of $25,000 for each unit of coverage. A unit of coverage shall be all the lands in any one State or Territory held by the principal under either the Mineral Leasing Act or the Mineral Leasing Act for Acquired Lands. Coverage under both acts in one State or Territory constitutes two units. In lieu of a surety bond, a personal bond in a like amount may be given by the obligor with the deposit as security therefor of negotiable bonds of the United States of a par value equal to the amount specified in the bond. Where upon a default, the surety makes payment to the Government of any indebtedness due under a lease, the face amount of the surety bond and the surety's liability thereunder shall be reduced by the amount of such payment. Thereafter, upon penalty of cancellation of all of the leases covered by such bond the principal shall post a new nationwide bond in the amount of $150,000 or a unit bond, as the case may be, within 6 months after notice, or within such shorter period as the authorized officer of the Bureau of Land Management may fix. However, in lieu thereof, the principal may within that time file separate bonds for each lease. The provisions hereof may be made applicable to any nationwide or unit bond in force at the time of the approval of the amendment of this paragraph by filing in the appropriate land office a written consent to that effect and an agreement to be bound by the provisions hereof executed by the principal and the surety. Upon receipt thereof the bond will be deemed to be subject to the provisions of this paragraph.

§ 192.101 *Form of bonds.* Bonds furnished by lessees will be on Form 4–208g; those furnished by operators on Form 4–238; bonds furnished in lieu of other bonds, pursuant to § 192.100 (e), will be on Form 4–1167 for surety bonds or on Form 4–1168 for personal bonds.

CONTINUATION OR EXTENSION OF LEASE [4]

§ 192.120 *Single extension of a noncompetitive lease.* (a) Under the conditions set out in the following paragraphs of this section, the record title holder of any noncompetitive lease maintained in accordance with the statutory requirements and the regulations in this part shall be entitled to a single extension of the lease at the expiration of the initial five-year term unless then otherwise provided by law. An application for such extension may be filed by the record title holder of the lease, by an assignee whose assignment has been filed for approval, or by an operator whose operating agreement has been filed for approval.

(b) The application for extension must be filed, within ninety days before the expiration date of the lease, on Form 4–1238, "Application for Extension of Oil and Gas Lease",[5] or unofficial copies of that form in current use and must be accompanied by a filing fee of $10 which will be retained as a service charge even though the application is later withdrawn or rejected and, unless previously paid, the sixth year's rental: *Provided*, That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes or advertising. Form 4–1238 or a valid reproduction of the official form, will also constitute approval of the extension when signed by an authorized officer.

(c) If during the 90 day period prior to the expiration date of the lease, the record title holder, assignee or operator files an application or request for an extension not on the prescribed form or unofficial copies thereof, or fails to file the prescribed number of copies, or pay the sixth year's rental, a notice will be issued allowing him 30 days to do so. The application will be rejected if such filing or payment is not made within the time allowed.

(d) Where, upon the expiration of the initial 5-year lease term, the leased lands or any part thereof, have been withdrawn from leasing, the lease will not be extended as to such lands, except that, a withdrawal shall not affect the right to an extension if drilling operations were actually commenced on the withdrawn lands prior to the effective date of the withdrawal and such operations were being diligently prosecuted on the expiration date of the lease, or if notice of the withdrawal has not been sent by

[4] For extension of lease (a) because of suspension of operations and production, see § 191.26 of this chapter; (b) by payment of compensatory royalty, see § 192.8; (c) committed to communitization or drilling agreement, see § 192.22; (d) used for subsurface storage, see § 192.25; (e) segregated by assignment, see § 192.144.

[5] Filed with the Federal Register Division as part of the original document.

registered mail to each lessee to be affected thereby, at least 90 days prior to the termination date of the lease.

(e) Upon compliance with, and in accordance with, the provisions of this section, the lease will be extended, subject to the rules and regulations in force at the expiration of the initial term, (1) as to the lands not within the known geologic structure of a producing oil or gas field, for a period of 5 years, and so long thereafter as oil or gas is produced in paying quantities, and (2) as to lands within the known geologic structure of a producing oil or gas field, for a period of 2 years and so long thereafter as oil or gas is produced in paying quantities.

(f) The timely filing of an application for extension shall have the effect of segregating the leased lands until the final action taken on the application is noted on the tract book, or, for acquired lands, on the official records relating thereto, of the appropriate land office. Prior to such notation, the lands are not available to the filing of offers to lease. Offers to lease filed prior to such notation will confer no rights in the ofieror and will be rejected.

(g) Upon failure of the lessee or the other persons enumerated in paragraph (a) of this section to file an application for extension within the specified period, the lease will expire at the expiration of its primary term without notice to the lessee. Notation of such expiration need not be made on the official records, but the lands covered by such expired lease will be subject to the filing of new lease offers only as provided in § 192.43.

§ 192.121 *Continuation of lease on termination of production.* (a) A lease which is in its extended term because of production shall not terminate upon cessation of production if, within 60 days thereafter, reworking or drilling operations on the leasehold are commenced and are thereafter conducted with reasonable diligence during the period of nonproduction.

(b) No lease for lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same, unless the lessee fails to place the well on a producing status within 60 days after receipt of notice by registered mail from the Regional Oil and Gas Supervisor to do so: *Provided,* That after such status is established production shall continue on the leased premises unless and until suspension of production is allowed by the Secretary of the Interior under the provisions of the act.

§ 192.122 *Extension for terms of cooperative or unit plan.* (a) Any lease issued for a term of 20 years, or any renewal thereof, committed to a cooperative or unit plan approved by the Secretary of the Interior, or any portion of such lease so committed, shall continue in force so long as committed to the plan, beyond the expiration date of its primary term. This provision does not apply to that portion of any such lease which is not included in the cooperative or unit plan unless the lease was so committed prior to August 8, 1946.

(b) Any other lease issued under any section of the act, committed to any such plan that contains a general provision for the allocation of oil or gas, shall continue in effect as to the land committed so long as the lease remains subject to the plan: *Provided,* That production of oil or gas is had in paying quantities under the plan prior to the expiration date of such lease, whether it be in its primary term or its extended term.

(c) Any lease committed after July 29, 1954 to such a plan, which covers lands within and lands outside the area covered by the plan, shall be segregated, as of the effective date of unitization, into separate leases; one covering the lands committed to the plan and the other the lands not so committed. The segregated lease covering the nonunitized portion of the lands, shall continue in force and effect for the term thereof but for not less than two years from the date of segregation, and so long thereafter as oil or gas is produced in paying quantities.

§ 192.123 *Extension of lease eliminated from cooperative or unit plan or communitization or drilling agreement and of lease in effect at termination of such plan or agreement.* Any lease or portion thereof eliminated from any approved or prescribed cooperative or unit plan or from any communitization or drilling agreement authorized by the act, and any lease in effect at the termination of such plan or agreement, unless relinquished, shall continue in effect for the original term of the lease, or for two years after its elimination from the plan or agreement or the termination thereof, whichever is the longer, and so long thereafter as oil or gas is produced in paying quantities.

ASSIGNMENTS OR TRANSFERS

§ 192.140 *Assignments or transfers of leases or interests therein.* Leases may be assigned or subleased as to all or part of the leased acreage and as to either a divided or undivided interest therein to any person or persons qualified to hold a lease. The assignment or sublease must be accompanied by a signed statement by the assignee or sublessee that he is the sole party in interest in the assignment or sublease; if not, he shall set forth the names and the nature and extent of the interest therein of the other interested parties, the nature of the agreement between them, if oral, and a copy of such agreement, if written. Such statement must be signed by all of the interested parties including the assignee or sublessee, and all interested parties must furnish evidence of their qualifications to hold such lease interests. Such statement must be filed not later than 15 days after the filing of the assignment or sublease. Subject to final approval by the Bureau of Land Management, assignments or subleases shall take effect as of the first day of the lease month following the date of filing in the proper land office of all the papers required by § 192.141 and 192.142. No assignment will be approved if the assignee or sublessee is not qualified to take and hold a lease or if his bond is insufficient or if he fails to file the statement required by this section. A minor, except a minor heir or devisee of a lessee, is not qualified to hold a lease and an assignment to a minor will not be approved. An assignment of a separate zone or deposit or of a part of a legal subdivision will not be approved unless the necessity therefor is established by clear and convincing evidence.

§ 192.141 *Requirements for filing of transfers.* (a) (1) Except as to assignments of record title, all instruments of transfer of a lease or of an interest therein, including assignments of working or royalty interests, and operating agreements, and subleases, must be filed for approval within 90 days from the date of final execution and must contain

all of the terms and conditions agreed upon by the parties thereto, together with a statement over the transferee's own signature with respect to citizenship and interests held, similar to that required of an offeror under § 192.42 (e) (3), (4) and (f).

(2) To obtain approval of a transfer affecting the record title of an oil and gas lease, a request for such approval must be made, within 90 days from the date of the execution of the assignment by the parties. Form 4–1175, "Assignment affecting Record Title to Oil and Gas Lease", or unofficial copies of that form in current use may be used for such transfers and requests for approval: *Provided*, That the unofficial copies are exact reproductions on one sheet of both sides of the official approved one-page form, and are without additions, omissions, or other changes, except that the copies shall include the following statement above the signature of the assignee: "This form is submitted in lieu of official Form 4–1175 and contains all of the provisions thereof as of the date of filing of this assignment." In addition, the name and address of the printer or other party issuing unofficial reproductions of the official form shall be printed thereon. This form may be used for any assignment which affects a transfer of the record title to all or part of an oil and gas lease, but it is not to be used for any other type of transfer. Form 4–1175, or a valid reproduction of the official form, will also constitute approval of the assignment when signed by the manager of the land office.

(3) An application for approval of any instrument of transfer of a lease or interest therein or a filing of any such instrument under § 192.145 must be accompanied by a fee of $10, and an application not accompanied by payment of such a fee will not be accepted for filing by the manager. Such fee will not be returned even though the application later be withdrawn or rejected in whole or in part.

(b) Where an attorney in fact, in behalf of the holder of a lease, operating agreement or of a royalty interest in a producing lease, signs an assignment of the agreement, lease, or interest, or signs the application for approval, there must be furnished evidence of the authority of the attorney to execute the assignment or application, and the statement required by § 192.42 (e) (3).

(c) If a bond is necessary, it must be furnished. Where an assignment does not create separate leases the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. Any assignment which does not convey the assignor's record title in all of the lands in the lease must also be accompanied by consent of his surety to remain bound under the bond of record for the lease interest retained by said assignor, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a nation-wide bond on either form, 4–1167 or 4–1168, applicable to the State and the act under which the lease issued, no additional showing is necessary by such party as to the bond requirement. If any overriding royalty or payments out of production are created which are not shown in the instrument or agreement, a statement must be submitted describing them. If payments out of production are reserved, a statement should be submitted stating the details as to the amount, method of payment, and other pertinent terms. Assignments of record title interests must be filed in triplicate. A single copy of any additional information specified in Instructions, Form 4–1175,[5] relating to citizenship and qualifications of corporations, will be sufficient. A single executed copy of all other instruments of transfer, or of an operating agreement is sufficient.

(d) In order for the heirs or devisees of a deceased holder of a lease, an operating agreement, or a royalty interest in a producing lease, to be recognized by the Department as the holder of the lease, agreement, or interest, there must be furnished the appropriate showing required under § 192.42 (l).

(e) The assignor or sublessor and his surety will continue to be responsible for the performance of any obligation under the lease until the assignment or sublease is approved. If the assignment or transfer is not approved, their obligations to the United States shall continue as though no such assignment or transfer had been filed for approval. After approval the assignee or sublessee and his surety will be responsible for the performance of all lease obligations notwithstanding any terms in the assignment or sublease to the contrary.

(f) Unless the lease account is in good standing as to the area covered by the assignment when the assignment and bond are filed, or is placed in good standing before the assignment is reached for action the lease will be cancelled as provided in § 192.161.

§ 192.142 *Separate assignments required for transfer of record titles to leases.* A separate instrument of assignment must be filed for each oil and gas lease when transfers involve record titles. When transfers to the same person, association, or corporation, involving more than one oil and gas lease are filed at the same time for approval, one request for approval and one showing as to the qualifications of the assignee will be sufficient.

§ 192.143 *Effect of assignment of particular tract.* When an assignment is made of all or part of the record title to a portion of the acreage in a lease, the assigned acreage becomes segregated into a separate and distinct lease. The assignee becomes a lessee of the Government as to the segregated tract and is bound by the terms of the lease as though he had obtained the lease through an application filed in his own name and the assignment after its approval will be the basis of a new record.

§ 192.144 *Extension of leases segregated by assignment.* (a) Any lease segregated by assignment, including the retained portion, shall continue in effect for the primary term of the original lease, or for two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the original lease, whichever is the longer period.

(b) Undeveloped parts of leases assigned out of leases which are in their extended term under any provision of the act shall continue in effect for two years, and so long thereafter as oil or gas is produced in paying quantities.

§ 192.145 *Royalty interests in oil and gas leases and assignments thereof.* Royalty interests in oil and gas leases constitute holdings or control of lands and deposits within the meaning of section 27 of the act. In order that the holdings of the assignee may be verified, all assignments of royalty interests must be filed for record purposes but no formal approval will be given. Any such assignment will be deemed to be valid provided it is accompanied by a statement over the assignee's signature that he is a citizen of the United States and that his interests in oil and gas leases do not exceed the acreage limitation as provided in § 192.3 and by the statement as to over-riding royalties required by § 192.83. If any portion of this statement is found to be false the assignment shall be invalid.

[5] Filed with the Federal Register Division as part of the original document.

TERMINATION OF LEASES

§ 192.160 *Relinquishments of leases or portions thereof.* A lease or any legal subdivision thereof may be surrendered by the record title holder by filing a written relinquishment, in triplicate, in the proper land office. A relinquishment shall take effect on the date it is filed subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to place all wells on the land to be relinquished in condition for suspension or abandonment in accordance with the regulations and the terms of the lease. A statement must be furnished that all moneys due and payable to workmen employed on the leased premises have been paid.

§ 192.161 *Cancellation and termination of lease.*

(a) Any lease issued after July 29, 1954, or any lease which is extended after that date pursuant to § 192.120 on which there is no well capable of producing oil or gas in paying quantities shall automatically terminate by operation of law if the lessee fails to pay the rental on or before the anniversary date of such lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely. The termination of the lease for failure to pay the rental must be noted on the official records of the appropriate Land Office. Upon such notation the lands included in such lease will become subject to the filing of new lease offers only as provided for in § 192.43.

(b) Whenever the lessee fails otherwise to comply with any of the provisions of the act, of the regulations issued thereunder, or of the lease, such lease may be cancelled by the Secretary of the Interior if not known to contain valuable deposits of oil or gas after notice to lessee in accordance with section 31 of the act, if default continues for the period prescribed in that section after service of notice thereof. Any lessee of a lease which issued prior to July 29, 1954, may, at any time prior to the anniversary date of such lease and the accrual of rental, elect to subject his lease to the automatic termination provisions of this section by notifying, in writing, the manager of the appropriate land office to that effect.

(c) Leases known to contain valuable deposits of oil or gas may be cancelled only by judicial proceedings in the manner provided in sections 27 and 31 of the act.

This Circular replaces Circulars 2002, 2009, 2015, 2035, and those portions of Circulars 2017 and 2032 relating to 43 CFR 192.

GPO 887793

BUREAU OF LAND MANAGEMENT
UNITED STATES DEPARTMENT OF THE INTERIOR

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

[Circular 2038]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Payment to U.S. for Road Use

Part 115 is amended by adding a new paragraph (c) to § 115.171, reading as follows:

§ 115.171 Payment to the United States for road use.

* * * * *

(c) If an application is filed to use a road built on O. and C. lands by the applicant or his predecessor in interest under a permit which has expired, the authorized officer may issue a new permit which provides that as to such road the applicant's road use payments shall be determined in accordance with paragraph (b) of this section except that he shall be required to pay a road use fee which is adequate to amortize only his proportionate share of any capital improvements which have been or may be placed on the road by the United States or its licensees together with a reasonable interest allowance thereon plus cost of maintenance if furnished by the United States: *Provided, however,* That if the application is for use of a road which has been built by a predecessor in interest the permit shall provide that the applicant may use the road only for the purpose of reaching the lands of the predecessor in interest that were served by the road. As a condition for the granting of such a permit, the applicant must comply with § 115.162 to the extent that rights-of-way and road use rights are needed to manage lands of the United States or to remove timber therefrom.

ELMER F. BENNETT,
Acting Secretary of the Interior.

FEBRUARY 3, 1960.

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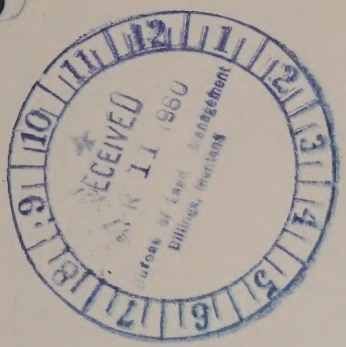

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2039]

PART 192—OIL AND GAS LEASES

Boundaries of Known Geologic Structures and Productive Limits of Producing Oil and Gas Fields and Deposits

replaced by Circular 2078 4-30-62

§ 192.6 is amended to read as follows:

§ 192.6 Boundaries of known geologic structures and productive limits of producing oil or gas fields and deposits.

(a) The Director of the Geological Survey will determine the boundaries of the known geologic structures of producing oil or gas fields, and, where necessary to effectuate the purposes of the act, the productive limits of producing oil or gas deposits as such limits existed on August 8, 1946.

(b) Determinations of "structures defined" will be followed, as soon as practicable, by the filing in the appropriate land office of maps or diagrams showing the structure boundaries, and by publication in the FEDERAL REGISTER of notices that the determinations have been made. Because determinations of "structures undefined" are usually of a more temporary nature, maps or diagrams thereof will not be filed and notices thereof will not be published; however, a memorandum of each such determination will be filed in the appropriate land office and will be available for public inspection. Additional information concerning the procedures used in making the determinations may be obtained from the Geological Survey, Washington 25, D.C.

(c) In accordance with long-standing rulings of the Department, if the producing character of a structure underlying a tract of land is actually known prior to the date of the Department's official pronouncement on that subject, it is the date of the ascertainment of the fact, and not the date of the pronouncement, that is determinative of rights which depend upon whether the land is or is not situated within a known geologic structure of a producing oil or gas field. Ernest A. Hanson, A–26375 (May 29, 1952), and cases cited therein. All determinations are subject to change at any time upon receipt of further information through the drilling of wells and other sources. Accordingly, lessees or applicants for leases should not rely upon the maps, diagrams, determinations or notices thereof, as currently controlling documents.

(d) Any lessee or his operator may apply to the Director of the Geological Survey for a determination whether the land in his lease is inside or outside the productive limits of a producing oil or gas deposit as such limits existed on August 8, 1946.

ELMER F. BENNETT,
Acting Secretary of the Interior.

Dated: March 17, 1960.

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GPO 8907 42

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2040]

PART 188—ASPHALT LEASES

PART 193—COAL LEASES, PERMITS AND LICENSES

PART 195—SODIUM PERMITS AND LEASES; USE PERMITS

PART 196—PHOSPHATE LEASES AND USE PERMITS

PART 198—SULPHUR PERMITS AND LEASES

PART 199—MINERALS SUBJECT TO LEASE UNDER SPECIAL LAWS

PART 200—MINERAL DEPOSITS IN ACQUIRED LANDS AND UNDER RIGHTS-OF-WAY

Filing of Applications for Mineral Leases and Permits

1. Paragraph (a)(2) of § 188.12 is amended to read as follows:

§ 188.12 Application for lease by competitive bidding.

(a) * * *

(2) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys.

2. Paragraph (a)(4) of § 193.11 is amended to read as follows:

§ 193.11 Application for lease.

(a) * * *

(4) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the United States Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

3. Section 195.3 is amended to read as follows:

§ 195.3 Area and limitation on holdings.

A lease or permit may not include more than 2,560 acres except where the rule of approximation applies. The lands in the lease or permit will be in reasonably compact form and entirely within an area of six miles square or within an area not exceeding six surveyed or protracted sections in length or width. No person, association or corporation may hold at any one time more than 5,120 acres in any one State, except as hereinafter stated, whether directly through ownership of sodium permits and leases, or of interests in them, or indirectly through association membership or stock ownership. Where necessary in order to secure the economic mining of leasable sodium compounds, a person, association, or corporation may be permitted to hold up to 15,360 acres in any one State.

4. Paragraph (a)(2) of § 195.17 is amended to read as follows:

§ 195.17 Application for lease by competitive bidding.

(a) * * *

(2) A complete and accurate descrip-

tion of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the land are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either as official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the United States Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

5. Paragraph (d) of § 196.7 is amended to read as follows:

§ 196.7 Application for lease.

* * * * *

(d) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the land are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the United States Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

6. Section 198.3 is amended to read as follows:

§ 198.3 Area and limitations on holdings.

A lease or permit may not include more than 640 acres except where the rule of approximation applies. The lands in the lease or permit will be in reasonably compact form and entirely within an area of six miles square or within an area not exceeding six surveyed or protracted sections in length or width. No person, association or corporation may hold more than three sulphur permits or leases in any one State during the life of such permits or leases.

7. Paragraph (a)(2) of § 198.19 is amended to read as follows:

§ 198.19 Application for lease by competitive bidding.

(a) * * *

(2) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys.

8. Paragraph (d) of § 199.9 is amended to read as follows:

§ 199.9 Form and contents of application.

(d) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys.

9. Paragraph (a)(5) of § 200.34 is deleted and paragraphs (a)(4) and (d) of that section are amended to read as follows:

§ 200.34 Filing and contents of applications; filing fees; acreage limitation; qualifications; priority rights.

(a) * * *

(4) Contain a complete and accurate description of the lands for which the prospecting permit or lease is desired. If the lands have been surveyed under the rectangular system of public land surveys, and the description can be conformed to such survey system, the lands must be described by legal subdivision, section, township, and range. Where the description cannot be conformed to the public land survey, any boundaries which do not so conform must be described by metes and bounds, giving courses and distances between successive angle points with appropriate ties to established survey corners. If not so surveyed and if within the area of the public land surveys[1] the lands must be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected with an official corner of those surveys by courses and distances. If not so surveyed and the tract is not within the area of the public land survey,[1] it must be described in a

[1] Lands "within the area of the public land surveys" are those north and west of the Ohio and Mississippi Rivers (except Texas) and in the States of Mississippi, Alabama, Florida, and Alaska.

manner consistent with the description in the deed under which it was acquired, amplified where the deed description does not supply them, to include the courses and distances between the successive angle points on the boundary of the tract, and adequately shown on a plat or map to permit its location within the administrative unit or project of which it is a part.

* * * * *

(d) A prospecting permit may not include more than 2,560 acres, and will be issued to the first qualified applicant.[3] The lands in the permit must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. An application for a prospecting permit which covers lands that are not located entirely within an area of six miles square or an area of six surveyed sections in length or width will be rejected in its entirety.

[3] A larger area may be granted under the "rule of approximation" in those States covered by the public land rectangular system. That rule applies to applications for prospecting permits only where elimination of the smallest legal subdivision involved would result in a deficiency of area under 2,560 acres greater than the excess over 2,560 acres resulting from the inclusion of such subdivision.

ELMER F. BENNETT,
Acting Secretary of the Interior.

MARCH 28, 1960.

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Chapter I—Bureau of Land Management, Department of the Interior

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AUTHORITY: 193.1 to 193.30, inclusive, issued under sec. 32 41 Stat. 450; 30 U.S.C. 189

GENERAL

§ 193.1 *Statutory authority.* Sections 2 to 8, inclusive, of the act of February 25, 1920 (41 Stat. 438 et seq., 30 U. S. C. 201, 202–208), as amended, authorize the Secretary of the Interior to:

(a) Divide into leasing units and award leases of coal lands and coal deposits owned by the United States.

(b) Issue permits to prospect unclaimed and undeveloped areas of coal lands and coal deposits; and

(c) Issue limited licenses or permits to prospect for, mine and take for use coal from public lands.

§ 193.2 Area and limitation on holdings; segregation of coal deposits; public hearings.

(a) A single lease or permit may embrace not exceeding 2,560 acres except where the rule of approximation applies. A permit will comprise contiguous tracts, or tracts in reasonably compact form if good reason appears for not including a contiguous area. A lease will comprise contiguous tracts, except in cases where it appears that noncontiguous tracts can be practically worked as a single mine or unit. No person, association or corporation may hold at any one time, either directly or indirectly, leases or permits exceeding 10,240 acres in any one State, except as hereinafter stated.

(b) A person, association, or corporation may file with the Manager of the appropriate land office an application or applications for coal leases or permits for acreage in addition to the 10,240 acres, which application or applications shall be in multiples of 40 acres, not exceeding a total of 5,120 additional acres in any one State, and shall contain a statement that the granting of a lease or permit for such additional lands is necessary to carry on business economically and is in the public interest.

(c) Upon the filing of an application for additional lands as specified in paragraph (b) of this section, the coal deposits in the lands covered thereby shall be temporarily set aside and withdrawn from all forms of disposal under the Act.

(d) All applications filed for additional lands as specified in paragraph (b) of this section shall be posted in the appropriate land office, and the authorized officer shall conduct public hearings thereon. Upon conclusion thereof, he may, in his discretion or whenever sufficient public interest is manifested, reevaluate the lessee's or permittee's need for all or any part of the additional acreage. Thereafter and to the extent necessary for the applicant to carry on business economically, the authorized officer may issue coal leases or permits to the applicant for additional acreage of not more than 5,120 acres (within the aggregate limitation of 2,560 acres in a single lease or permit), subject to such terms and conditions as may be prescribed by the Secretary of the Interior. Such terms and conditions may require the payment either of a cash bonus per acre or fraction thereof or a rental and royalty rate different from that required by the original leases or permits or both.

§ 193.3 *Qualifications of applicants.* (a) Leases and prospecting permits may be issued to citizens of the United States, associations of citizens, and corporations organized under the laws of the United States or any State or Territory thereof, including a company or corporation operating a common-carrier railroad, and to municipalities. Limited licenses or permits for the mining of coal may be issued to citizens, associations of citizens and municipalities.

(b) Every applicant for coal permit or lease, other than a company or corporation operating a common-carrier railroad, must show that, with the area applied for, his or its interest or interests in such permits, leases and applications therefor, directly or indirectly, do not exceed in the aggregate 10,240 acres in any one State.

(c) Every company or corporation operating a common-carrier railroad must make a statement that it needs the coal for which it seeks a permit or lease for its own use for railroad purposes; that it operates main or branch lines in the State in which the lands involved are located; that the aggregate

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acreage in the permits, leases and applications therefor in which it is interested directly or indirectly does not exceed 10,240 acres; and that it does not hold more than one permit or lease for each 200 miles of its railroad lines served or to be served from such coal deposits exclusive of spurs or switches and exclusive of branch lines built to connect the leased coal with the railroad, and also exclusive of parts of the railroad operated mainly by power produced otherwise than by steam.

(d) Every applicant for lease or permit must also furnish a showing as to the need for additional coal production which cannot otherwise be reasonably met, or, if such a showing of need cannot be made, a statement of the reasons why a lease or permit is desired.

§ 193.4 *Equitable rights; holders of leases or permits affecting certain lands or coal deposits in Oklahoma.* (a) Equitable rights of persons who, prior to February 25, 1920, occupied and improved or claimed coal lands in good faith may be recognized in awarding leases of such lands. In the case of an award of a lease to such a person the rents and royalties will be established at rates not less than the minimum provided for leases under the act.

(b) A holder of a lease or permit, including a lease under temporary extensions, outstanding on May 24, 1949, covering certain coal lands or coal deposits in Oklahoma which the Choctaw and Chickasaw Nations agreed to convey to the United States in a contract ratified by the act of June 24, 1948 (62 Stat. 596), who has maintained or acted diligently to maintain the lease or permit in good standing, may obtain a lease for the same lands or deposits without competitive bidding, provided that he files an application for a lease under this part prior to the expiration date of the current lease.

§ 193.5 Permits, leases and licenses for lands disposed of with reservation of coal.

Where lands included in a permit, lease or license have been or may be disposed of with reservation of the coal deposits, a permittee, lessee or licensee must make full compliance with the law under which such reservation was made. See the acts of March 3, 1909 (35 Stat. 844; 30 U.S.C. 81); June 22, 1910 (36 Stat. 583; 30 U.S.C. 83–85), December 29, 1916 (39 Stat. 862; 43 U.S.C. 291–301); June 17, 1949 (63 Stat. 200); June 21, 1949 (63 Stat. 214; 30 U.S.C. 54); March 8, 1922 (42 Stat. 415; 48 U.S.C. 377), and other laws authorizing such reservation.

§ 193.6 *Requirements when lands are within a withdrawal.* Where any part of the lands embraced in an application for coal lease, permit or license is within a withdrawal which does not preclude disposition of the coal deposits, the head of the Government agency having control will be called upon for a report as to whether there is any objection to the granting of a coal lease, permit or license. In cases where such agency recommends that a special stipulation be furnished by the applicant to protect the interest of the United States, an appropriate stipulation will be included in the lease, permit or license.

COAL LEASES

§ 193.7 *Leasing units.* (a) No coal land or deposits may be leased until after division into suitable leasing units or tracts. Such leasing units may be established either upon application or when it is deemed advisable that additional coal units be established.

(b) All material factors, such as character and depth of the coal deposits, topography of the land, situation with respect to adjacent private holdings of coal lands, the proximity of rail or water transportation and outlet for other lands in the immediate vicinity, as well as the investment reasonably required to provide the requisite development and operating facilities, will be given consideration in the establishment of leasing units.

(c) Leasing units may include, in whole or in part, unsurveyed land, but a survey of the land will be made and the leasing unit conformed to such survey prior to the execution of a lease thereof.

§ 193.8 *Form of lease.* Leases shall be issued on Form 4–696.

§ 193.9 *Lease bond.* A compliance bond, in no event less than $1,000, with approved corporate surety (Form 4–1113), or the lessee's personal bond in similar amount (Form 4–1114), will be required prior to the issuance of a lease. Personal bonds must be accompanied by negotiable Federal securities in the amount of the bond. If the amount of the bond is fixed at $1,000, the lessee may, instead, furnish a bond on Form 4–1113 with two qualified individual sureties, as provided in § 191.13 of this subchapter. The right is reserved at any time before or after issuance of the lease to require an increase of the amount of the bond, whether a corporate, personal or individual surety bond, in any case where the Bureau of Land Management deems it proper to do so.

§ 193.10 *Minimum production.* Leases shall be conditioned upon the payment of a royalty on a minimum annual production beginning with the sixth year of the lease, except when operation is interrupted by strikes, the elements, or casualties not attributable to the lessee, unless, on application and showing made, operations shall be suspended when market conditions are such that the lease cannot be operated except at a loss or for the other reasons specified in section 39 of the act.[1] Operations under the lease shall be continuous except in the circumstances described or unless the lessee shall pay a royalty, less rent, on the minimum production for one year in advance, in which case operations may be suspended for that year.

§ 193.11 *Application for lease.* (a) Application shall be filed in duplicate in the proper land office in the State, or for lands in a State in which there is no land office, shall be filed with the Bureau of Land Management, Washington 25, D.C., except applications for lands in North or South Dakota shall be filed in the land office at Billings, Montana; applications for lands in Nebraska or Kansas, shall be filed in the land office at Cheyenne, Wyoming; and for lands in Oklahoma, in the land office at Santa Fe, New Mexico. No specific form is required, but the application should cover the following points:

(1) The applicant's name and address.

(2) Proof of citizenship: If applicant is an individual, a statement as to whether native born or naturalized; if an association (including a partnership), it must submit a certified copy of the articles of association and a statement by its members as to their citizenship and holdings. If the applicant is a corporation, it must submit statements showing (i) the State or Territory in which it is incorporated; (ii) that it is authorized to hold leases and permits for coal deposits, and the names of the officers authorized to act in such matters in behalf of the corporation; (iii) the percentage of the corporate voting stock and of all the stock owned by aliens or those having addresses outside of the United States; and (iv) the name, address, citizenship and acreage holdings of any stockholder owning or controlling 20 percent or more of the corporate stock of any class. If more than 10 percent of the stock is owned or controlled by or on behalf of aliens, or persons who have addresses outside of the United States, the corporation must give their names and addresses, the amount and class of stock held by each, and to the extent known to the corporation or which can be reasonably ascertained by it, the facts as to the citizenship of each. A municipality must submit evidence of: (*a*) The manner in which it was organized; (*b*) that it is authorized to hold a permit or lease; and (*c*) that the action proposed has been duly authorized by its governing body. Where such material has previously been filed a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(3) A statement of the interests, direct or indirect, in other coal leases, permits or applications therefor on public lands in the State in which the lease is desired, identifying same by land office and serial number, and that such interests, when added to the acreage covered by the application, do not exceed in the aggregate 10,240 acres in the State. A railroad company or corporation operating a common carrier must state that its interests, together with the acreage covered by the application, do not exceed in the aggregate 10,240 acres.

(4) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the

[1] See showing required under § 191.26 of this subchapter.

lands by legal subdivision; section, township, and range. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys. If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the United States Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public.

(5) The showing specified in §193.3 (d).

(6) A statement of the general situation of the land with respect to other mines, its topography, outlet to market, and transportation facilities and the character and extent of the coal deposits so far as known.

(7) The contemplated investment for the development and equipment of a producing mine of a stated average daily output.

(b) The application must be signed by the applicant or his attorney-in-fact, and if executed by an attorney-in-fact must be accompanied by the power of attorney and the applicant's own statement [2] as to citizenship and acreage holdings. Applications on behalf of a corporation must be accompanied by proof of the signing officer's authority to execute the instrument and must have the corporate seal affixed thereto.

(c) A filing fee of $10, which will be retained as a service charge in any event, must accompany each application.

§ 193.12 *Offer of lands or deposits for lease by competitive bidding.* If the lands or deposits are found to constitute an acceptable leasing unit and subject to coal lease, they will be offered for such lease on the terms and conditions to be specified in the notice of sale to the qualified person who offers the highest bonus by competitive bidding as provided in the notice of sale. If it be found that the area covered by an application does not constitute an acceptable leasing unit, the area may be adjusted, by appropriate additions and eliminations, to constitute an acceptable leasing unit which may be offered for lease.

§ 193.13 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will show the time and place of sale, whether the sale will be at public auction or by sealed bids, the description of the land and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which the bids may be submitted, and statements (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; and (b) that the Government reserves the right to reject any and all bids. If the sale is by public auction, the statement of terms and conditions of the sale will also specify that sealed bids may be submitted. If any bid be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding is unlawful. See 18 U. S. C. 1860.

§ 193.14 *Sale; bidding requirements, action by successful bidder.* (a) When the sale is by public auction, before bidding is commenced by those persons present, the Manager or other officer conducting the sale will open and read to those persons the sealed bids received on or before the time set in the notice of lease offer. The successful bidder at a sale by public auction must on the day of sale deposit with the Manager or other officer conducting the sale and each bidder at a sale by sealed bid must submit with his bid, the following: Certified check, cashier's check, bank draft, money order or cash for one-fifth of the amount of the bid by him, and a statement over the bidder's own signature with respect to citizenship and interests held, similar to that prescribed in § 193.11 (a) (2) and (3).

(b) Upon receipt of the high bid at, and at the close of, an oral auction, or the opening of the sealed bids, the authorized officer, subject to his right to reject any and all bids, will award the lease to the successful bidder, who will be notified accordingly. If the land is surveyed, four lease forms will be sent to the successful bidder, who will be required within 30 days from receipt thereof to execute them, pay the balance of the bonus bid, the first year's rental, and the cost of publication of the notice of lease offer as specified in § 193.13, and file a bond as required by § 193.9. The lease will be dated as of the first day of the month following its issuance unless the successful bidder requests that it be dated as of the first day of the month of issuance. If the land is unsurveyed, the successful bidder will not be required to comply with the requirements of this subsection until the land has been surveyed and the plat of such survey accepted and officially filed. Such survey will be at the expense of the Government. If the bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Mineral Leasing Act. If the lease awarded to the successful bidder, is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease. If the bidder dies before the lease is issued, there must be furnished satisfactory evidence, such as specified in § 193.24 (b), in order that the Manager of the appropriate land office may determine to whom the lease may be issued.

§ 193.15 *Modification and leasing of additional land or coal deposits.* (a) Under section 3 of the act (30 U. S. C. 203), a lessee may obtain a modification of his lease to include coal lands or coal deposits contiguous to those embraced in his lease if the authorized officer determines that it will be to the advantage of the lessee and the United States, but in no event shall the area embraced in such modified lease exceed in the aggregate 2,560 acres, except where the rule of approximation applies. The lessee shall file his application for modification in duplicate in the proper land office describing the additional lands desired, the needs and reasons for and the advantage to the lessee of such modification. Upon determination by the authorized officer that the modification is justified and the interest of the United States is protected, the lease will be modified without competitive bidding to include such part of the land or deposits as he shall prescribe. If, however, it is determined that the additional lands or deposits can be developed as part of an independent operation or that there is a competitive interest in them, they may be offered as provided in § 193.13.

(b) Under section 4 of the act (30 U. S. C. 204), upon satisfactory showing by the lessee that all of the workable deposits of coal within a tract covered by the lease will be exhausted, worked out or removed within three years thereafter, an additional tract of land or coal deposit may be leased. Application shall be filed in duplicate in the proper land office and shall contain a description of the lands requested, estimated recoverable reserves, future plan of operation for such reserves and for any lands requested and the proposed method of entry into such lands. If the lands or coal deposits or any part thereof are found to constitute an acceptable leasing unit they will be offered for leasing as provided in § 193.13. If the applicant be the successful bidder and the additional lands can be practicably operated

[2] 18 U. S. C. 1001 makes it a crime for any person knowingly and wilfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement as to any matter within its jurisdiction.

with the applicant's leasehold as a single mine or unit, the additional lands may be included in a modified lease which must not exceed 2560 acres; otherwise, a separate lease may be issued.

(c) Before a lease is modified under paragraph (a) or (b) of this section, the lessee shall file the consent of surety and the acceptance by the lessee of the applicable regulations.

(d) A filing fee of $10, which will be retained as a service charge in any event, must accompany an application for modification of a lease under paragraph (a) or (b) of this section.

§ 193.16 *Readjustment of terms and conditions at end of twenty-year periods.* The terms and conditions of a lease are subject to readjustment at the end of each twenty-year period succeeding the date of the lease unless otherwise provided by law at the time of the expiration of such periods. The lessee will be notified of the proposed readjustment of terms or notified that no readjustment is to be made. Unless the lessee files objection to the proposed terms or a relinquishment of the lease within 30 days after receipt of the notice, he will be deemed to have agreed to such terms. Notice of the proposed readjustments will be given, whenever feasible, before the expiration of each such twenty-year period.

§ 193.17 *Relinquishment of lease.* Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

§ 193.18 **Cancellation of lease generally; cancellation of lease or permit issued pursuant to § 193.2(d).** (a) If the lessee shall fail to comply with the provisions of the act, or of the general regulations promulgated and in force at the date of the lease, or at the effective date of any readjustment of the terms and conditions thereof under § 193.16, or make default in the performance or observance of any of the terms, covenants, and stipulations of the lease and such failure or default shall continue for 30 days after service of written notice thereof by the lessor, than the lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of the lease as provided in section 31 of the act. A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause of forfeiture, or for the same cause occurring at any other time.

(b) A lease or permit issued pursuant to § 193.2(d) may be canceled by the authorized officer, if the cancellation is in the public interest or the coal deposits in the lands covered thereby are no longer necessary for the lessee or permittee to carry on business economically or if the lessee or permittee has divested himself of all or any part of the original 10,240 acres or no longer has facilities for the exploitation of the deposits under lease or permit. However, such lessee or permittee will be given notice of the proposed cancellation and afforded an opportunity of submitting evidence showing why the lease or permit should not be canceled.

COAL PROSPECTING PERMITS

§ 193.19 *Character of lands.* Permits shall be issued on Form 4–694 for a period of two years to qualified applicants to prospect unclaimed, undeveloped lands where prospecting or exploratory work is necessary to determine the existence or workability of the coal deposits.

§ 193.20 *Rights conferred.* A permit will entitle the permittee to the exclusive right to prospect for coal on the land described therein. In the exercise of this right, the permittee shall be authorized to remove from the premises only such coal as may be necessary in order to determine the workability and commercial value of the coal deposits in the land.

§ 193.21 *Application for permit.* An application for a permit must be filed in duplicate in the manner and in the office specified in § 193.11. Each application must be accompanied by a filing fee of $10.00 which will be retained as a service charge even though the application should be rejected or withdrawn either in whole or in part. No specific form of application is required, but in addition to the requirements of § 193.11 (a) (1), (2), (3), (4) and (5) and (b), it should cover the following points:

(a) Condition of coal occurrences, so far as determined; description of workings, and outcrops of coal beds, if any, and reason why the land is believed to offer a favorable field for prospecting for coal.

(b) Detailed plan and method of conducting prospecting or exploratory operations on the land, estimated cost of carrying out such proposed prospecting operations, and the diligence with which such operations will be prosecuted.

(c) Brief statement of applicant's experience in coal-mining operations, if any, together with one or more references as to his reputation and business standing.

§ 193.22 **Permit bond.**

The applicant must furnish a corporate surety bond on Form 4–1130 or his personal bond on Form 4–1131 conditioned upon compliance with all the terms of the prospecting permit. The bond shall be in the sum of $500 except where the lands applied for have been entered or patented with the coal reserved to the United States pursuant to the act of June 22, 1910 (36 Stat. 583; 30 U.S.C. 83–85) or the act of March 8, 1922 (42 Stat. 415; 48 U.S.C. 377), in which event, a bond on the same form in the sum of $1,000 will be required. Personal bonds must be accompanied by negotiable Federal securities in the amount of the bond. The bond may be filed with the application which will expedite action thereon, or within 30 days after receipt of notice by the applicant that the permit will be granted when the bond is filed. The permittee may, in lieu of a bond of the two types specified above, submit one on Form 4–1130 with two qualified sureties as provided in § 191.13 of this chapter.

§ 193.23 *Extension of permits.* (a) Coal permits may be extended for a period of two years if the permittee has been unable with the exercise of reasonable diligence to determine the existence or workability of the coal deposits, or for others reasons which may warrant an extension. An application for extension must be filed in duplicate only within the period beginning 90 days prior to the date to which the permit is limited. The application must be filed in the office specified in § 193.11 and must show what efforts, if any, the permittee has made to comply with the terms of his permit and the reasons for failure fully to comply therewith, such showing to be corroborated, if possible, by a statement of at least one disinterested person having actual knowledge of the facts. The application must also show how much additional time is considered necessary to complete prospecting work. Extension will be limited to such period, not exceeding the two years authorized, as may be determined to be allowable under the circumstances in each particular case. Upon failure of permittee to file such an application within the specified period, the permit will expire without notice to the permittee and upon notation of such expiration in the land office tract books, the lands will become subject to new applications for coal permits or leases.

(b) Until the cancellation or termination of a coal permit is noted on the records of the land office or on the records of the Bureau of Land Management if the lands involved are in a State in which there is no land office, no other person will be permitted to gain any right to the same class of deposits by the filing of an application therefor, and such application shall be rejected.

(c) An application for extension of a permit must be accompanied by a filing fee of $10, which will be retained as a service charge even though the application is later withdrawn or rejected.

§ 193.24 *Reward for discovery.* (a) A permittee who shows, that prior to the expiration of his permit, the land included in the permit contains coal in commercial quantities, is entitled to a preference right lease for all or part of the land, the area to be taken in a reasonably compact form. An application for preference right lease must be filed in duplicate in the office specified in § 193.11 promptly after commencement of commercial operations, but in no event later than the expiration of the period

to which the permit is limited. The application must describe the land desired, set forth fully and in detail the extent and mode of occurrence of the coal deposits as disclosed by the prospecting work performed under the permit, show that coal was discovered in commercial quantities before the date of the expiration of the permit and show any change in the information contained in the application for permit. The application must be accompanied by the rental for the first year of the lease, which shall be twenty-five cents for each acre or fraction thereof. The lease, if issued, will be in accordance with the provisions of §§ 193.8 to 193.10, inclusive, and will be dated the first day of the month following the date of the decision notifying the applicant that he is entitled to a preference right lease, unless otherwise specified therein. If the permit expires and the application for lease is finally rejected royalty for coal mined to the date of receipt of notice by the permittee of such rejection will be charged in accordance with the royalty terms of the permit and such mining of the coal will not constitute a trespass.

(b) If the permittee dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed; if probate has been completed, or is not required, to the heirs or devisees; and if there are minor heirs or devisees, to their legal guardian or trustee in his name, provided there is filed in all cases the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person, who as executor or administrator submits forms of lease and bond, has authority to act in that capacity and to sign such forms.

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased permittees and are the only heirs or devisees of the deceased.

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings similar to that required by § 193.11 (a) (2) and (3).

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the permittees and citing the provisions of the law of the deceased's last domicile showing no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 193.11 (a) (2) and (3), except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(3) Where there is a legal guardian or trustee:

(i) A certified copy of the court order authorizing the guardian or trustee to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; statements by the guardian or trustee as to the citizenship and holdings of each of the minors and as to his own citizenship and holdings, including his holdings for the benefit of other minors similar to that required by § 193.11 (a) (2) and (3).

TRANSFERS OF PERMITS AND LEASES; OVERRIDING ROYALTIES

§ 193.25 *Transfers, including subleases.* (a) Permits and leases may be transferred, in whole or in part to any person, association, or corporation qualified to hold such leases and permits. The approval of a transfer of only part of the lands described in a permit or lease will create a new permit or lease which will be given a current serial number, but a discovery on lands under one permit will not inure to the benefit of the other. The approval of such a transfer will not extend the life of the permit or the readjustment periods of the lease. Transfers of permits and leases, whether by direct assignments, working agreements, transfer of royalty interests, subleases or otherwise, must be filed for approval at the office specified in § 193.11 within 90 days from final execution and must contain evidence of the qualifications of the assignee or transferee, consisting of the same showing required of a lease or permit applicant by § 193.11 (a) (2) and (3) and (b). If the instrument fails to describe the true consideration, a statement must be submitted showing the consideration in full. The statement will be treated as confidential and not for public inspection. If a bond is necessary it must be furnished. Transfers of record title interest must be filed in triplicate. A single executed copy of all other instruments of transfer is sufficient. A transfer will take effect the first day of the month following its final approval by the Bureau of Land Management, or if the transferee requests, the first day of the month of the approval.

(b) The transferor of a permit or lease, including a sublease, and his surety will continue to be responsible for the performance of any obligation under the permit or lease until the effective date of the approval of the transfer. If the transfer is not approved, their obligation to the United States shall continue as though no such transfer had been filed for approval. After the effective date of approval the transferee, including sublessee, and his surety will be responsible for the performance of all permit or lease obligations notwithstanding any terms in the transfer to the contrary. The account under the permit or lease must be in good standing before approval of a transfer will be given.

(c) An application for approval of any instrument transferring a lease or permit, or interest therein, must be accompanied by a service fee of $10. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

(d) No transfer will be approved if the transferee is not qualified to take and hold a permit or lease or if his bond is insufficient. A minor, except a minor heir or devisee of a permittee or lessee, is not qualified to hold a permit or lease and a transfer to a minor will not be approved.

(e) In order for the heirs or devisees of a deceased holder of a permit or lease, an operating agreement, or a royalty interest in a permit or lease, to be recognized by the Secretary as the holder of the permit or lease, agreement or interest, there must be furnished the appropriate showing required under § 193.24 (b).

§ 193.26 *Limitation on overriding royalties.* An overriding royalty interest shall not be created by assignment or otherwise exceeding 50 percent of the rate of royalty first payable to the United States under the lease or an overriding royalty interest which when added to any other overriding royalty interest exceeds that percentage, excepting that where an interest in the leasehold, permit, or operating agreement is assigned, the assignor may retain an overriding royalty interest in excess of the above limitation if he shows to the satisfaction of the Bureau of Land Management, that he has made substantial investments for improvements on the land covered by the assignment.

LIMITED COAL LICENSES

§ 193.27 *Purpose of license.* Coal licenses may be issued for a period of two years to individuals and associations of individuals to mine and take coal for their own local domestic need for fuel, but in no case for barter or sale, without the payment of any rent or royalty. Licenses may be issued to municipalities to mine and dispose of coal without profit to their residents for household use. Under such a license a municipality may not mine coal either for its own use or for nonhousehold use such as for factories, stores, other business establishments and heating and lighting plants.

§ 193.28 *Area and duration.* (a) A license to an individual or association, in the absence of unusual conditions or necessity, will be limited as to area to a legal subdivision of 40 acres or less and may be revoked at any time. Such license will expire by limitation at the end of 2 years from date of issuance, unless timely renewed on application filed and proper showing made prior to expiration of the 2-year period.

(b) Licenses to municipalities are limited as to area by the act, as follows: Not to exceed 320 acres for a municipality of less than 100,000 population, not to exceed 1,280 acres for a municipality of not less than 100,000, and not more than 150,000 population, and not to exceed 2,560 acres for a municipality of 150,000 population or more. Licenses to municipalities will expire by limitation at the end of 4 years from date of issuance, unless renewed; but every such licensee must make to the Bureau of Land Management, an annual report of all operations conducted under such license.

(c) An application for renewal of a license must be accompanied by a filing fee of $10, which will be retained as a service charge even though the application is later withdrawn or rejected.

§ 193.29 *Application for license.* Application for a limited license to mine coal for domestic needs must be filed, in quadruplicate, on Form 4–694a, or its substantial equivalent in the office specified in § 193.11, and be accompanied by a $10 filing fee. A municipality must file with the application a showing of (a) the law or charter and procedure taken by which it became and exists a legal body corporate, (b) that the taking of a license is authorized under such law or charter and (c) that the proposed action has been duly authorized by the governing body of the municipality.

§ 193.30 *Licenses to relief agencies* (a) The Bureau of Land Management, may grant authority to a recognized established relief agency of any State, upon its request, to take government-owned coal deposits within the State in localities where needed to supply families on the rolls of such agency who require coal for fuel for their homes and who are unable to pay for same.

(b) Tracts shall be selected at points convenient to supply the families in the locality thereof, and each family shall be restricted to the amount of coal actually needed for its use, which in no case shall exceed 20 tons annually.

(c) Coal may be taken from such tracts only by those given written authority by the relief agency, and all mining shall be done pursuant to permission and all Federal and State laws and regulations for the safety of miners, prevention of fires and of waste, etc., shall be observed. The relief agency shall see that the premises are left in a safe condition for future mining operations.

(d) The local relief agency may take coal from available land prior to issuance of license but not earlier than 5 days after it has filed in the land office of the district wherein the land is situated an application for license. No filing fee will be required. In the absence of objections and if the application is otherwise regular, a license will be granted. Pending action on the application for license, the relief agency may continue to take the coal.

This Circular replaces circulars 1788, 1932, 1958, 1995, 2030, and that part of Circulars 2001, 2034 and 2040, relating to 43 CFR, Part 193

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—MINERAL LEASES

[Circular 2048]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

Protection of Bona Fide Purchasers of Leases From Cancellation

Part 191 of Title 43 Code of Federal Regulations is amended and supplemented by adding a new § 191.15 to read as follows:

§ 191.15 Bona fide purchasers of leases and interests subject to cancellation or forfeiture.

(a) The act of September 21, 1959 (73 Stat. 571; Public Law 86-377), amends section 27 of the Mineral Leasing Act and provides that the right of cancellation or forfeiture for violation of any of the provisions of the act shall not apply so as to adversely affect the title or interest of a bona fide purchaser of any lease, option or a lease, or interest in a lease acquired in conformity with the express qualifications of the act, or the regulations issued thereunder, or the holdings of a predecessor in title (including the original lessee, when such lessee has relinquished or forfeited, or may be subject to cancellation or forfeiture for any such cause). Any holder of a lease or of an option whose title or interest is in any way adversely affected by any cancellation or forfeiture action with respect to any provision of the act shall be notified of the pending action, and advised that the protection and benefits of this section may be obtained by application to the Director for the purchase of the lease or interest involved within 90 days from the date of receipt of such notice.

(b) The act also provides that any party to any proceeding involving a violation of any provision of the act shall have the right to be represented at any hearing under it, and to introduce evidence bearing upon the question of whether he is a bona fide purchaser entitled to the protection of the act. A party claiming to be a bona fide purchaser under the act shall have the burden of proof of such fact, and the evidence offered in support thereof must be sufficient to show that the lease or interest was acquired in good faith, without violating any provision of the act, for a valuable consideration, and without actual or constructive notice that the lease or interest therein had been obtained in violation of the act.

Elmer F. Bennett,
Acting Secretary of the Interior.

May 2, 1960.

[F.R. Doc. 60-4118; Filed, May 4, 1960; 8:47 a.m.]

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2042]

PART 191—GENERAL REGULATIONS APPLICABLE TO MINERAL PERMITS, LEASES, AND LICENSES

Protection of Bona Fide Purchasers of Leases From Cancellation

Part 191 of Title 43 Code of Federal Regulations is amended and supplemented by adding a new § 191.15 to read as follows:

§ 191.15 Bona fide purchasers of leases and interests subject to cancellation or forfeiture.

(a) The act of September 21, 1959 (73 Stat. 571; Public Law 86–294), amends section 27 of the Mineral Leasing Act and provides that the right of cancellation or forfeiture for violation of any of the provisions of the act shall not apply so as to adversely affect the title or interest of a bona fide purchaser of any lease, option for a lease, or interest in a lease acquired in conformity with the acreage limitations of the act from anyone whose holdings, or the holdings of a predecessor in title, including the original lessee, may have been cancelled or forfeited, or may be subject to cancellation or forfeiture for any such violation. The holder of a lease or of an interest therein whose lease or interest is or may be adversely affected by any cancellation or forfeiture action pursuant to any provision of the act shall be notified of the proposed action and advised that the protection and benefits of Public Law 86–294 may be obtained by submitting proof of bona fide purchase of the lease or interest therein within 60 days from the date of receipt of such notice.

(b) The act also provides that any party to any proceeding respecting a violation of any provision of the act has the right to be dismissed from such proceeding upon a showing that the lease interest involving him was acquired as a bona fide purchaser without having violated any provisions of the act. A party seeking such dismissal must affirmatively plead and prove that he acquired the lease interest as a bona fide purchaser without violating any provision of the act. Petitions or motions for dismissal shall be filed in duplicate in the office where the contest is pending and proceedings thereon will be under the jurisdiction of the Hearing Examiner who shall render decisions thereon in accordance with the rules of practice.

(c) As provided in the act, if during any such proceeding a party thereto files a waiver of his rights under the lease to drill or to assign his interest thereunder or if his rights are suspended by order of the Secretary pending a decision, the lease or interest of such party shall, if he is found in such proceedings not to be in violation of any provision of the act, be extended for a period of time equal to that between the date of filing of the waiver or the order of suspension, and the first day of the month following his dismissal from such proceedings, or the final decision, whichever is earlier. No additional rental shall be required for the extended period, if the lease had been maintained in good standing. Any party claiming a right to extension of a lease under this provision of law is required to file a request therefor in the land office prior to the expiration of its term.

(d) Any party claiming to be a bona fide purchaser under the act bears the burden of proof of such fact, and evidence offered in support thereof must be sufficient to show that the lease or interest was acquired in good faith without violating any provision of the act, for a valuable consideration, and without actual or constructive notice that the lease or interest therein had been obtained in violation of the act.

ELMER F. BENNETT,
Acting Secretary of the Interior.

MAY 2, 1960.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER T—SALE, LEASE OR USE AND ACQUISITIONS

[Circular 2043]

PART 259—DISPOSAL OF TIMBER AND MINERAL RESOURCES

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§ 259.1 Statutory authority.

(a) The act of July 31, 1947 (61 Stat. 681), as amended by the act of July 23, 1955 (69 Stat. 367; 30 U.S.C. 601 et seq.) authorizes the disposal of timber on public lands of the United States, if the disposal of such timber (1) is not otherwise expressly authorized by law including, but not limited to, the act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315), as amended, and the United States mining laws, (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. The act authorizes the United States, its permittees, and licensees to use so much of the surface of any unpatented mining claim located under the mining laws of the United States after July 23, 1955 as may be necessary for access to adjacent land for the purposes of such permittee or licensee. Such use of the surface shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto.

(b) The act of July 23, 1955, supra, authorizes the disposal of mineral materials, including, but not limited to, the common varieties of sand, stone, gravel, pumice, pumicite, cinders, and clay on public lands of the United States, including, for the purpose of this act, land described in the acts of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a), and June 24, 1954 (68 Stat. 270); if the disposal of such materials (1) is not otherwise expressly authorized by law, including, but not limited to, the act of June 28, 1934, supra, as amended, and the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. The act of April 15, 1954 (68 Stat. 53) provides that for the purpose of aiding in the development of building materials essential to the growth of Alaska, the Secretary of the Interior is authorized, in his discretion, for a period of fifteen years from the date of approval of that act and pursuant to the provision of the act of July 31, 1947, supra, to permit the removal of deposits of siliceous volcanic ash, commonly known as pumicite, from such area as he may designate along the shores of Shelikof Strait in Katmai National Monument, Alaska.[1]

(c) Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, County, municipality, water district or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under the regulations in this part only with the consent of such other Federal department or agency or of such State, or local governmental unit. The act of July 23, 1955, supra, provides, however, that the Secretary of Agriculture shall dispose of materials under the act of July 31, 1947, as amended, supra, if such materials are on lands administered by the Secretary of Agriculture for national forest purposes or for purposes of title III of the Bankhead-Jones Farm Tenant Act or where withdrawn for the purpose of any other function of the Department of Agriculture.

(d) The provisions of the act of July 23, 1955, supra, in disposal of vegetative or mineral materials do not apply to lands in any national park, or national

[1] Pursuant to the act of April 15, 1954, supra, and for a period of 15 years from the date thereof, unless sooner revoked, the following described area is designated for the removal of deposits named in the act:

Those lands within ¼ mile of mean high tide in Geographic Harbor at latitude 58°08' N., longitude 154°36' W., the harbor lying within Amalik Bay on Shelikof Strait, Katmai National Monument, Alaska.

Appropriate conditions for the protection of the monument will be included in the contracts.

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monument or to any Indian lands or lands set aside or held for the use or benefit of Indians including lands over which jurisdiction has been transferred to the Department of the Interior by Executive Order for the use of Indians.

(e) The act of July 23, 1955, supra, authorizes the Secretary of the Interior in his discretion to permit free use of timber or mineral materials by any Federal or State governmental agency, unit or subdivision, including municipalities, or any association or corporation not organized for profit for use other than for commercial or industrial purposes or resale.

(f) The act of July 23, 1955, supra, also provides in part, under certain circumstances, for a mining claimant to obtain free-use of timber from other Bureau administered land in lieu of timber disposed of by the Bureau from lands covered by his mining locations. See § 259.29.

§ 259.2 Definitions.

Except as the context may otherwise indicate, as the terms are used herein and in contracts hereunder:

(a) "Bureau" means Bureau of Land Management, Department of the Interior.

(b) "Director" means the Director of the Bureau of Land Management.

(c) "Authorized Officer" means the Government official who has been duly authorized to sign a contract for the sale of forest products and mineral materials from public lands or to supervise operations and take action under such contract.

(d) "Timber" means standing trees, downed trees, logs or forest products of any type or any other vegetative material.

(e) "Mineral Materials", as defined in section 1 of the act of July 23, 1955, include, but are not limited to "common varieties" of sand, stone, gravel, pumice, pumicite, cinders, clay and other similar materials.

(f) The word "act" when used in this part refers to the act of July 31, 1947, as amended by the act of July 23, 1955 (69 Stat. 367; 30 U.S.C., sec. 601, et seq.).

(g) "Set-aside" means a designation of timber for a sale which is limited to bidding by small business concerns as defined by the Small Business Administration in its regulations (13 CFR Part 121) under authority of section 15 of the Small Business Act of July 18, 1958 (72 Stat. 384).

Subpart A—Disposal of Timber

Sales

§ 259.3 Timber sales which must be made under other statutes; rights under other statutes.

(a) The sale of timber will be made under other acts where there is any such statutory authority.

(1) Dead or down timber, or timber which has been seriously or permanently damaged by forest fires, shall not be sold under the act but rather under the act of March 4, 1913 (37 Stat. 1015; 16 U.S.C. 614, 615), as amended, and the regulations thereunder (Part 284 of this chapter). However, where such dead, down, or damaged timber is intermingled with timber which is live, standing, and of merchantable size and character, and it is not feasible to sell the two classes of timber separately, consideration will be given to the sale of both classes in a single transaction under the act and the regulations in this part.

(2) The sale of timber in Alaska where statutory authority under other acts exists, will be made under such statutes and the applicable regulations (Part 79 of this chapter); however, sales of more than a two-year supply of timber for domestic use in Alaska may be authorized under the act.

(3) Timber on the revested Oregon and California Railroad and Reconveyed Coos Bay Wagon Road Grant Lands will be sold under the act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1131a) (see Part 115 of this chapter).

(4) The limitations on free-use timber privileges under the act are set out in §§ 259.20, 259.27, 259.28, and 259.29.

(b) (1) Timber sales may not be made under the act from public lands on which there are valid, existing claims to the land, by reason of settlement, entry, or similar rights obtained under the public land laws, except as provided under subparagraph (2) of this paragraph; (2) timber sales may be made on unpatented mining claims which were located after July 23, 1955, or if the Government's right to manage the surface resources under the act has been established pursuant to Part 185 of this chapter or the claim has been declared invalid under the proceedings set forth in Part 221 of this chapter or other proceedings; (3) if the sale of timber is consistent with such interest in the land, as in the case of lawful grazing or mining use, the timber may be sold under the act under such conditions as the authorized officer, in his discretion, may specify.

§ 259.4 Statement of timber disposal policy.

(a) In the sale of timber it shall be the policy of the Department to (1) dispose of timber in such a manner and in conformance with sound timber management principles as to obtain maximum permanent benefits and in addition, dispose of forest products under the principles of sustained-yield management; (2) provide in contracts and permits for all necessary and reasonable protection, restoration, and rehabilitation of the surface resources, including but not limited to such actions as revegetation, reforestation, erosion control during and after operations, protection from fire, insect, disease, wind and other injury.

(b) No timber sale shall be made under this part where the authorized officer determines that the aggregate damages to public lands and resources will exceed the benefits derived from such sale.

(c) Timber may be sold upon the request of any interested party or upon the authorized officer's own initiative.

§ 259.5 Advertising.

(a) Advertisements of timber appraised at more than $1,000 shall be published on the same day weekly for four consecutive weeks in a newspaper of general circulation within the county in which the timber is located, and a notice of the sale shall be posted in a conspicuous place in the office where bids are to be submitted.

(b) The advertisement of sale shall state the location by legal description of the tract or tracts on which the timber is being offered, the species, estimated quantities, the unit of measurement, appraised prices, time and place for receiving and opening of bids, minimum deposit required, the access situation, the method of bidding, which tracts of timber, if any, have been designated as set-asides, the office where additional information may be obtained, and such additional information as the authorized officer may deem necessary.

(c) Advertisement of timber appraised at $1,000 or less may be published or posted at the discretion of the authorized officer.

§ 259.6 Sales, appraisal, and measurements.

(a) No timber, other than that designated in the contract, shall be severed or extracted unless it has been marked or otherwise designated in advance and written permission given by the authorized officer and payment made therefor; however, where necessary to protect life or property, the authorized officer may grant oral authority to cut danger trees. He may permit removal of such danger trees after payment is received therefor.

(b) All timber to be sold shall be appraised and in no case shall be sold at less than the appraised value.

(c) Timber to be sold shall be measured by tree cruise, log scale, weight, or such other form of measurement as the authorized officer determines to be in the public interest.

§ 259.7 Competitive sales.

All sales, other than those specified in § 259.8 shall be made only after inviting competitive bids through publication and posting. Sales shall not be held sooner than 1 week after the last advertisement. No competitive sales shall be offered by the authorized officer unless there is access to the sale area to anyone who is qualified to bid.

§ 259.8 Negotiated sales.

(a) When it is determined by the authorized officer to be in the public inter-

est, he may sell at not less than the appraised value, without advertising or calling for bids, timber not exceeding an estimated volume of 100 M board feet or, if the timber is not measured in board feet, a quantity not exceeding $1,000 in appraised value, to or for the benefit of any one person, partnership, association or corporation in any period of twelve consecutive months.

(b) When it is determined by the authorized officer to be in the public interest or to be necessary for the normal conduct of logging, he may sell additional timber within or near the contract area to the holder of a timber sale contract, during the term thereof, without advertising or calling for bids, providing the appraised value of the additional timber does not exceed $1,000. Such sale for additional timber shall be made at not less than the appraised price at the time of the additional sale.

§ 259.9 Qualifications of bidders and purchasers.

A bidder or purchaser for the sale of timber must be (a) an individual who is a citizen of the United States, (b) a partnership composed wholly of such citizens, (c) an unincorporated association composed wholly of such citizens, or (d) a corporation authorized to transact business in the States in which the timber is located. A bidder must also have submitted a deposit in advance, as required by § 259.10. To qualify for bidding to purchase set-aside timber, the bidder must accompany his deposit with a self-certification statement that he is qualified as a small-business concern as defined by the Small Business Administration (13 CFR Part 121).

§ 259.10 Deposits with bids.

Sealed bids must be accompanied by a deposit of not less than 10 percent of the appraised value of the timber. For timber offered at oral auction, bidders must make a deposit of not less than 10 percent of the appraised value prior to the opening of the bidding. The authorized officer, may, in his discretion, require larger deposits. Deposits may be in the form of cash, money orders, bank drafts, cashier's or certified checks made payable to the Bureau of Land Management, or bid bonds of a corporate surety shown on the approved list of the United States Treasury Department. Upon conclusion of the bidding the bid deposits of all bidders, except the high bidder, shall be returned. Except for corporate surety bid bonds, the deposit of the successful bidder will be applied on the purchase price at the time the contract is signed by the authorized officer.

§ 259.11 Conduct of sales.

(a) Bidding at competitive sales shall be conducted by the submission of written sealed bids, oral bids, or a combination of both as directed by the authorized officer. In the event of a tie in high sealed bids, the highest bidder shall be determined by oral auction among the high bidders. If no oral bid is made which is higher than the sealed bids, the highest bidder shall then be determined by lot. Except for the first bid, no oral bid will be considered or recorded which is not higher than the highest preceding bid. In oral auction sales the high bidder must confirm his bid in writing immediately upon being declared the high bidder.

(b) At the request of the authorized officer, or the officer conducting the sale, bidders must furnish evidence of qualification in conformance with § 259.9 or if such evidence has already been furnished, make appropriate reference to the record containing it.

(c) Only bids of small business concerns which have filed a self certification statement as required by § 259.9, may be considered for timber sales subject to set-asides. When no such bids are received, the timber may be sold under paragraph (e) of this section in the same manner as timber not previously made subject to a set-aside. When timber subject to a set-aside is not sold for any other reason, the sale may be rescheduled for a set-aside.

(d) When it is in the interest of the Government to do so the authorized officer may reject any or all bids and may waive minor deficiencies in the bids or the timber sale advertisement.

(e) If no bid is received within the time specified in the advertisement of sale, and if the authorized officer determines that there has been no significant rise in the market value of the timber, he may in his discretion, keep the sale open for not to exceed 90 days by posting notice thereof in a conspicuous place in the office where bids are to be submitted. If during such period a written bid is submitted together with the required deposit, for not less than the advertised appraised value, a notice of such bid shall be posted immediately after receipt of the bid for seven successive days in the same office and in the same manner. If no other written bid is received during the seven day posting period, the sole bidder shall be deemed the high bidder. If, however, during such seven day posting period other written bids are received, an oral auction shall be conducted in the usual manner among those who have submitted written bids. The authorized officer shall notify those who have submitted written bids of the time and place of the oral auction. The high written bid shall be considered the initial bid in such oral auction. If there is a tie in the high written bids that are submitted during the seven day posting period and if no higher bid is offered during the oral auction, the party who first submitted the high bid shall be deemed the high bidder.

§ 259.12 Award of contract.

(a) The authorized officer may require the high bidder to furnish such information as is necessary to determine the ability of the bidder to perform the obligations of the contract. The contract shall be awarded to the high bidder, unless he is not qualified or responsible or unless all bids are rejected. If the high bidder is not qualified or responsible or fails to sign and return the contract together with the required performance bond, the contract may be offered and awarded for the amount of the high bid to the highest of the bidders who is qualified, responsible, and willing to accept the contract.

(b) Within 30 days after receipt of the contract the successful bidder shall sign and return the contract, together with any required performance bond; *Provided,* That the authorized officer may, in his discretion, extend such period an additional 30 days if the extension is applied for in writing and granted in writing within the 30-day period. If the successful bidder fails to comply within the stipulated time, his bid deposit shall be forfeited as liquidated damages.

§ 259.13 Contract forms.

All sales shall be made on contract forms approved by the Director. The authorized officer may include additional provisions in the contract to cover conditions peculiar to the sale area, such as road construction, logging methods, silvicultural practices, reforestation, snag felling, slash disposal, fire prevention, fire control, and protection of improvements, watersheds and recreational values. Such additional provisions shall be made available for inspection by prospective bidders during the advertising period.

§ 259.14 Performance bonds.

(a) A performance bond of not less than 20 percent of the total contract price will be required for contracts of $2,000 or more. When the total contract price is less than $2,000, bond requirements, if any, will be in the discretion of the authorized officer. The performance bond may be:

(1) Bond of a corporate surety shown on the approved list issued by the United States Treasury Department and executed on an approved standard form; or

(2) Personal surety bond, executed on an approved standard form if the authorized officer determines the principals and bondsmen are capable of carrying out the terms of the contract; or

(3) Cash bond; or

(4) Negotiable securities of the United States.

(b) Where the timber sale contract has required a bond in connection with construction of a road, the authorized officer may, upon satisfactory completion of the road construction, reduce the amount of the total performance bond by the amount of all or a portion of the estimated road construction costs: *Provided, however,* That the total amount of the performance bond shall, in no event, be reduced below 20 percent of the total contract price.

§ 259.15 Payments.

(a) No part of any timber sold may be cut or removed unless advance payment has been made as provided in the contract.

(b) For sales under $2,000 the full amount shall be paid prior to or at the time the authorized officer signs the contract. For sales of $2,000 or more the authorized officer may allow payment by installments as provided below.

(1) Installment payments shall be determined by the authorized officer. For sales up to $100,000 installment payments shall be not less than 10 percent. For sales over $100,000 installment payments shall not be less than $10,000. For cruise sales the first installment shall be paid prior to or at the time the authorized officer signs the contract. The second installment shall be paid prior to the commencement of cutting operations: *Provided, however,* That prior to paying the second installment the authorized officer may permit the purchaser to cut and remove timber on the location over which a road must be constructed under this contract, if the purchaser pays for such timber in advance. Each subsequent installment shall be due and payable without notice when the value of the timber cut, equals the sum of all the payments minus the first installment. The total amount of the purchase price must be paid prior to 60 days before the expiration date of the contract. The purchaser shall not be entitled to a refund on a cruise sale even though the amount of timber cut, removed or designated for cutting may be less than the estimated total volume shown in the contract.

(2) For scale sales installment payments shall be made in the same manner as in subparagraph (1) of this paragraph, except that if it is determined after all designated timber has been cut that the total payments made under the contract exceed the total value of the timber measured, such excess shall be returned to the purchaser within 60 days after such determination is made.

§ 259.16 Time for cutting.

Time for cutting timber sold shall not exceed a period of two years except that such time for cutting may be extended as provided in § 259.17.

§ 259.17 Extension of time.

If the purchaser shows that his delay in cutting was due to causes beyond his control and without his fault or negligence, the authorized officer may grant an extension of time, not to exceed one year, upon written request of the purchaser. Such written request must be received not later than 30 days prior to the expiration date of the time for cutting but not earlier than 90 days prior thereto. Additional extensions may be granted if the purchaser submits the same type of written request not later than 30 days prior to the expiration date of an extension but not earlier than 90 days prior thereto. No extension may be granted without reappraisal as provided in § 259.18.

§ 259.18 Reappraisals.

If an extension is granted as provided in § 259.17 each species of timber remaining on the contract area, title to which has not passed to the purchaser, shall be reappraised by the authorized officer. Such reappraised prices shall become the new unit prices for the purpose of computing the reappraised total purchase price except that the new unit prices shall not be less than the unit prices that were in effect during the original time for cutting or previous extension.

§ 259.19 Assignments.

(a) The purchaser may not assign the contract or any interest therein without the written approval of the authorized officer. An assignment shall contain all the terms and conditions agreed upon by the parties thereto.

(b) The authorized officer will not approve any proposed assignment involving contract performance unless the assignee (1) is authorized to transact business in the State in which the timber is located; (2) submits such information as is necessary to assure the authorized officer of his ability to fulfill the contract; and (3) furnishes a performance bond as required by § 259.14 or obtains a commitment from the previous surety to be bound by the assignment when approved. Upon approval of an assignment by the authorized officer, the assignee shall be entitled to all the rights and subject to all the obligations under the contract, and the assignor shall be released from any further liability under the contract.

Free Use

§ 259.20 Free use of timber under other statutes.

Free use of timber will be allowed under the following circumstances:

(a) In certain States by settlers on public lands, citizens and bona fide residents of the State, and corporations doing business in the State (Part 284 of this chapter), and

(b) In Alaska by actual settlers, residents, individual miners, prospectors for minerals, churches, hospitals and charitable institutions (Part 79 of this chapter).

(c) Free-use of timber by Governmental units, nonprofit organizations, and certain mining claimants may be authorized under the act and these regulations only when such applicants cannot qualify under the provisions of Parts 284 and 79 of this chapter.

§ 259.21 Application for permit.

An application for permit in duplicate, must be made on a form approved by the Director and filed in any office or with any employee of the Bureau of Land Management authorized to issue a permit. A free-use permit may be applied for without formal application for the removal of not more than three Christmas trees upon oral or written request.

§ 259.22 Issuance and cancellation of free-use permits; bond.

(a) A free-use permit, on a form approved by the Director, shall incorporate the provisions, if any, governing the selection, removal, and use of timber. Free-use permits shall not be issued when the applicant owns or controls an adequate supply of the material to meet his needs. Timber applied for must be for the applicant's own use and may not be bartered or sold. No timber may be cut or removed until the permit is issued.

(b) The authorized officer may cancel a permit if the permittee fails to observe its terms and conditions or the regulations, or if the permit has been issued erroneously.

(c) A bond satisfactory to the authorized officer may be required as a guarantee of faithful performance of the provisions of the permit and applicable regulations.

(d) A free-use permit issued under this part may not be assigned.

§ 259.23 Conservation practices.

All free-use timber disposed of under the act shall be severed, or removed in accordance with sound forestry and conservation practices so as to preserve to the maximum extent feasible all scenic, recreational, watershed and other values of the land and resources. In the free-use disposal of timber, cutting and removal shall be accomplished in such a manner as to leave the stand in condition for continuous production.

§ 259.24 Duration, extension, and termination of permit.

(a) Permits shall be granted for periods not to exceed 6 months and shall terminate on the expiration dates shown therein unless extended by the authorized officer. An extension not to exceed 3 months may be granted by the authorized officer. The permittee must notify the officer-in-charge upon completion of removal.

(b) Permits issued for the benefit of a mining claimant under authority of the act shall terminate upon transfer of the ownership of the claim by any means. Reapplication must be made by the new claimants.

§ 259.25 Removal by agent.

A free-use permittee may procure the timber by agent. Such agent shall not, however, be paid more than fair compensation for the time, labor and money expended in procuring timber and processing it, and no charge shall be made by such agent for the timber itself. No

part of the timber may be used in payment for services in obtaining it or processing it.

§ 259.26 Removal of improvements.

Upon expiration of the permit period the permittee will be given 90 days to remove equipment, personal property and any improvements he has placed on the land, except roads, culverts and bridges are to be left in place, in good condition and will become the property of the United States upon expiration of the 90-day removal period.

§ 259.27 Permits to governmental units.

A free-use permit may be issued to a Federal or State agency, unit, or subdivision, including a municipality, only if the applicant makes a satisfactory showing to the authorized officer that such timber will be used for a public project. The right to remove timber under the permit is not revoked or terminated by (a) any subsequent claim or entry of the lands, (b) by any mining claim located prior to the issuance of the permit if such location was subsequent to July 23, 1955, nor (c) by any other mining claim as to which the Government's right to manage the surface resources has been established in accordance with Part 185 of this chapter, or other proceedings.

§ 259.28 Permits to non-profit organizations.

A free-use permit issued to a non-profit association or corporation may not provide for the disposition of more than $100 worth of timber to the permittee during any one calendar year. Such permittee is granted a right to remove timber as against a subsequent applicant who may wish to obtain the same timber by purchase. The timber may not be removed by the permittee after the land has been included in a valid claim by reason of settlement, entry, or similar rights obtained under the public land laws.

§ 259.29 Permits to mining claimants.

(a) Free-use timber shall be granted under paragraph (f) of § 259.1 to the record owner of a valid mining claim if such claim was located subsequent to July 23, 1955, or if the Government's right to manage the surface resources has been established in accordance with Part 185 of this chapter, and he requires more timber than is available to him for prospecting, mining, or processing operations on his claim or claims after disposition of timber from his claim by the United States. The claimant shall be entitled to the free-use of timber for such requirements from the nearest timber administered by the Bureau which is substantially equal in kind and quantity to the timber estimated by the authorized officer at the time of application to have been disposed of by the Bureau from the claim. Upon issuance of a patent to the mining claims, the free-use privilege will automatically terminate.

(b) The application required to be filed for free-use timber under this section must contain a statement that the timber applied for will be used for bona fide prospecting, mining, or prospecting operations on the claim or group of claims designated in the application. The applicant must also include a statement that he is the record owner of a valid mining claim or claims from which the timber was originally removed by the Government.[1]

Subpart B—Disposal of Mineral Materials

SALES

§ 259.41 Mineral materials disposal policy; limitations.

(a) Mineral material disposals may not be made under the act from public lands on which: (1) There are valid, existing claims to the land by reason of settlement, entry, or similar rights obtained under the public land laws; (2) there are any unpatented mining claims located either before or after July 23, 1955, which have not been cancelled by appropriate legal proceedings; (3) there are valid unpatented mining claims located on or after July 23, 1955, for valuable minerals that are not a "common variety", occurring in, or associated with "common variety" minerals.

(b) No sale of material shall be made under this part where the authorized officer determines that the aggregate damages to public lands and resources will exceed the benefits derived from such disposal. Sound conservation practices shall be exercised by all permittees or purchasers in the removal of materials under the provisions granted by this part.

(c) Mineral materials may be sold upon the request of any interested party or upon the authorized officer's own initiative.

§ 259.42 Advertising.

(a) Advertisements of material appraised at more than $1,000 shall be published on the same day weekly for four consecutive weeks in a newspaper of general circulation within the area in which the material is located, and a notice of the sale shall be posted in a conspicuous place in the office where bids are to be submitted.

(b) The advertisement of sale shall state the location by legal description of the tract or tracts on which the material is being offered, the kind of material, estimated quantities, the unit of measurement, appraised prices, time and place for receiving and opening of bids, minimum deposit required, the access situation, the method of bidding, the office where additional information may be obtained, and such additional information as the authorized officer may deem necessary.

(c) Advertisement of materials appraised at $1,000 or less may be published or posted at the discretion of the authorized officer.

§ 259.43 Sales, appraisals, and measurements.

(a) No materials, other than that designated in the contract or permit, shall be extracted unless designated in advance and written permission given by the authorized officer and payment made therefor.

(b) All materials to be sold shall be appraised and in no case shall it be sold at less than the appraised value.

(c) Such mineral material shall be measured by volume, weight, or truck tally, or combination of these methods, or such other form of measurement as the authorized officer determines to be in the public interest.

§ 259.44 Competitive sales.

All sales, other than those specified in § 259.45 shall be made after inviting competitive bids through publication and posting in conformance with § 259.42. Sales shall not be held sooner than one week after the last advertisement. No competitive sales shall be offered by the authorized officer unless there is access to the sale area which is available to anyone who is qualified to bid.

§ 259.45 Negotiated sales.

(a) When it is determined by the authorized officer to be in the public interest, he may sell at not less than the appraised value, without advertising or calling for bids, mineral materials not exceeding $1,000 in appraised value; provided, that the total aggregate sales made to or for the benefit of any one person, partnership, association, or corporation in any period of twelve consecutive months may not exceed $1,000.

(b) Non-exclusive disposals may be made under this paragraph from the same deposit within areas designated by the State Supervisor for this purpose. These pit sites are not to exceed 40 acres

[1] 18 U.S.C. 1001 makes it a crime for any person, knowingly and willfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

in size, except they may be enlarged as the initial 40-acre site is depleted. Such permits issued for sale or removal of material from established community pit sites will constitute a superior right to remove the material as against any subsequent claim or entry of the lands.

§ 259.46 Qualification of bidders and purchasers.

A bidder or purchaser for the sale of mineral materials must be (a) an individual who is a citizen of the United States; (b) a partnership; (c) an unincorporated association composed wholly of such citizens; or (d) a corporation authorized to transact business in the States in which the mineral material is located. A bidder must also have submitted a deposit in advance of the sale as required by § 259.47.

§ 259.47 Deposits with bids.

Sealed bids must be accompanied by a deposit of not less than 10 percent of the appraised value of the mineral materials. For mineral materials offered at oral auction, bidders must make a deposit of not less than 10 percent of the appraised value prior to the opening of the bidding. The authorized officer may, in his discretion, require larger deposits. Deposits may be in the form of cash, money orders, bank drafts, cashier's or certified checks made payable to the Bureau of Land Management, or bid bonds of a corporate surety shown on the approved list of the United States Treasury Department. Upon conclusion of the bidding the bid deposits of all bidders, except the high bidder, shall be returned. Except for corporate surety bid bonds, the deposit of the successful bidder will be applied on the purchase price at the time the contract is signed by the authorized officer.

§ 259.48 Conduct of sales.

(a) Bidding at competitive sales shall be conducted by the submission of written sealed bids, oral bids, or a combination of both as directed by the authorized officer. In the event of a tie in high sealed bids, the highest bidder shall be determined by oral auction among the high bidders. If no oral bid is made which is higher than the sealed bids, the highest bidder shall then be determined by lot. Except for the first bid, no oral bid will be considered or recorded which is not higher than the highest preceding bid. In oral auction sales the high bidder must confirm his bid in writing immediately upon being declared the high bidder.

(b) At the request of the authorized officer, or the officer conducting the sale, bidders must furnish evidence of qualification in conformance with § 259.46 or if such evidence has already been furnished, make appropriate reference to the record containing it.

(c) When it is in the interest of the Government to do so the authorized officer may reject any or all bids and may waive minor deficiences in the bids or the mineral material sale advertisement.

§ 259.49 Award of contract.

(a) The authorized officer may require the high bidder to furnish such information as is necessary to determine the ability of the bidder to perform the obligations of the contract. The contract shall be awarded to the high bidder, unless he is not qualified or responsible or unless all bids are rejected. If the high bidder is not qualified or responsible or fails to sign and return the contract together with the required performance bond, the contract may be offered and awarded for the amount of the high bid to the highest of the bidders who is qualified, responsible, and willing to accept the contract.

(b) Within 30 days after receipt of the contract the successful bidder shall sign and return the contract, together with any required performance bond: *Provided,* That the authorized officer may, in his discretion, extend such period an additional 30 days if the extension is applied for in writing and granted in writing within the first 30-day period. If the successful bidder fails to comply within the stipulated time, his bid deposit shall be forfeited as liquidated damages.

§ 259.50 Contract forms.

All sales shall be made on contract forms approved by the Director. The authorized officer may include additional provisions in the contract to cover conditions peculiar to the sale area, such as road construction, protection of improvements, and watersheds and recreational values. Such additional provisions shall be made available for inspection by prospective bidders during the advertising period.

§ 259.51 Performance bonds.

(a) A performance bond of not less than 20 percent of the total contract price will be required for contracts of $2,000 or more. When the total contract price is less than $2,000, bond requirements, if any, will be in the discretion of the authorized officer. The performance bond may be:

(1) Bond of a corporate surety shown on the approved list issued by the U.S. Treasury Department and executed on an approved standard form; or

(2) Personal surety bond, executed on an approved standard form if the authorized officer determines the principals and bondsmen are capable of carrying out the terms of the contract; or

(3) Cash bond; or

(4) Negotiable securities of the United States.

(b) Where the materials sale contract has required a bond in connection with construction of a road, the authorized officer may, upon satisfactory completion of the road construction, reduce the amount of the performance bond by the amount of all or a portion of the estimated road construction costs: *Provided, however,* That the total amount of the performance bond shall, in no event, be reduced below 20 percent of the total contract price.

§ 259.52 Payments.

(a) No part of any mineral materials sold may be removed unless advance payment has been made as provided in the contract.

(b) For sales under $2,000 the full amount shall be paid prior to or at the time the authorized officer signs the contract. For sales of $2,000 or more the authorized officer may allow payment by installments as provided below:

(1) Installment payments shall be determined by the authorized officer but in no case shall be less than 10 percent of the total purchase price. For fixed unit sales the first installment shall be paid prior to or at the time the authorized officer signs the contract. The second installment shall be paid prior to the commencement of removal operations. Remaining installments shall be due and payable without notice whenever the value of the material removed shall equal the sum of the second and subsequent installments paid by the purchaser. The total amount of the purchase price must be paid prior to 60 days before the expiration date of the contract. The purchaser shall not be entitled to a refund on a fixed unit sale even though the amount of material removed or designated for removal may be less than the estimated total volume shown in the contract.

(2) For sales of all the material within a specified area, or sales for duration of production, installment payments shall be made in the same manner as in subparagraph (1) of this paragraph, except that if it is determined after all designated material has been removed that the total payments made under the contract exceed the total value of the material measured, such excess shall be returned to the purchaser within 60 days after such determination is made.

§ 259.53 Time for removal.

Time for removing materials sold, except that sold under a duration of production contract, shall not exceed a period of two years except that such time for removal may be extended as provided in § 259.54.

§ 259.54 Extension of time.

If the purchaser shows that his delay in removal was due to causes beyond his control and without his fault or negligence, the authorized officer may grant an extension of time, not to exceed one year, upon written request of the purchaser. Such written request must be received not later than 30 days prior to the expiration date of the time for re-

moval but not earlier than 90 days prior thereto. Additional extensions may be granted if the purchaser submits the same type of written request not later than 30 days prior to the expiration date of an extension but not earlier than 90 days prior thereto. No extension may be granted without reappraisal as provided in § 259.55.

§ 259.55 Reappraisals.

If an extension is granted as provided in § 259.54, mineral materials remaining on the contract area, title to which has not passed to the purchaser, shall be reappraised by the authorized officer. Such reappraised prices shall become the new unit prices for the purpose of computing the reappraised total purchase price except that the new unit prices shall not be less than the unit prices that were in effect during the original time for removal or previous extension.

§ 259.56 Assignments.

(a) The purchaser may not assign the contract or any interest therein without the written approval of the authorized officer. An assignment shall contain all the terms and conditions agreed upon by the parties thereto.

(b) The authorized officer will not approve any proposed assignment involving contract performance unless the assignee (1) is authorized to transact business in the State in which the mineral material is located; (2) submits such information as is necessary to assure the authorized officer of his ability to fulfill the contract; and (3) furnishes a performance bond as required by § 259.51 or obtains a commitment from the previous surety to be bound by the assignment when approved. Upon approval of an assignment by the authorized officer, the assignee shall be entitled to all the rights and subject to all the obligations under the contract, and the assignor shall be released from any further liability under the contract.

FREE USE

§ 259.57 Application for permit.

An application for permit, in duplicate, must be made on Bureau approved forms and filed in any office or with any employee of the Bureau of Land Management authorized to issue a permit.

§ 259.58 Issuance and cancellation of free-use permit; removal of materials; bond.

(a) A free-use permit, on a form approved by the Director, shall incorporate the provisions, if any, governing the selection, removal, and use of the mineral materials. Free-use permits shall not be issued where the applicant owns or controls an adequate supply of the mineral materials to meet his needs. The material applied for must be for the applicant's own use and may not be bartered or sold. No mineral materials shall be removed until the permit is issued

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(b) The authorized officer may cancel a permit if the permittee fails to observe its terms and conditions, or if the permit has been issued erroneously.

(c) A bond satisfactory to the authorized officer may be required as a guarantee of faithful performance of the provisions of the permit and applicable regulations.

(d) A free-use permit issued under this part may not be assigned.

§ 259.59 Conservation practices.

All mineral materials disposed of under free-use shall be extracted or removed in accordance with approved conservation practices so as to preserve to the maximum extent feasible all scenic, recreational, watershed, and other values of the land and resources.

§ 259.60 Duration, extension, and termination of permit.

Permits shall be granted for periods not to exceed one year and shall terminate on the expiration dates shown therein unless extended by the authorized officer, such extension not to exceed one year. However, the authorized officer may grant permits to any Federal, State, or Territorial agency, unit, or subdivision, including municipalities, for such periods as he may deem appropriate, not to exceed 10 years. The permittee must notify the officer in charge upon completion of removal.

§ 259.61 Removal by agent.

A free-use permittee may procure the mineral materials by agent. Such agent shall not, however, be paid more than fair compensation for the time, labor, and money expended in procuring the material and processing it, and, no charge shall be made for the material itself. No part of the material may be used in payment for services in obtaining or processing it.

§ 259.62 Removal of improvements.

Upon expiration of the permit period the permittee will be given 90 days to remove equipment, personal property and any improvements he has placed on the land, except roads, culverts and bridges are to be left in place, in good condition and will become the property of the United States upon expiration of the 90-day removal period.

§ 259.63 Permits to governmental units.

A free-use permit may be issued to any Federal or State agency, unit, or subdivision, including municipalities, without limitation as to the number of permits or as to the value of the mineral materials to be extracted or removed, provided that the applicant makes a satisfactory showing to the authorized officer that such materials will be used for a public project. Such permits will constitute a superior right to remove the materials and will continue in full force and effect, in accordance with its terms and provisions, as against any subsequent claim to or entry of the lands.

§ 259.64 Permits to non-profit organizations.

A free-use permit issued to a non-profit association or corporation may not provide for the disposition of mineral materials having an in-place value in excess of $100 during any one calendar year. Such permittee is granted a right to remove materials while the permit remains in force and, in accordance with the provisions of the permit, as against a subsequent applicant who may wish to obtain the same mineral material by purchase. However, the mineral materials may not be removed by the permittee after the land has been included in a valid claim by reason of settlement, entry, mining location or similar rights obtained under the public land laws.

Subpart C—General

§ 259.71 Trespass; penalty for unauthorized removal of materials.

The extraction or removal of timber or mineral materials from public lands under the jurisdiction of the Department of the Interior, except when authorized by law and the regulations of the Department is an act of trespass. Trespassers will be liable in damages to the United States, and will be subject to prosecution for such unlawful acts.

§ 259.72 Appeals.

A party aggrieved by any official action regarding his application, contract, or permit, may appeal from the decision of any subordinate official to the Director of the Bureau of Land Management, and from the Director's decision to the Secretary of the Interior pursuant to the rules of practice (Part 221 of this chapter).

ELMER F. BENNETT,
Acting Secretary of the Interior.

MAY 19, 1960.

[F.R. Doc. 60-4686; Filed, May 23, 1960; 8:51 a.m.]

This Circular replaces Circulars 1758, 1770, 1824, 1862, 1893, 1921, 1922

GPO 903617

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER L—MINERAL LANDS

[Circular 2044]

PART 192—OIL AND GAS LEASES

Required Forms of Remittances To Accompany Simultaneous Offers

Replaced by Circular 2078 4-30-62

Paragraph (c) of § 192.43 is amended to read as follows:

§ 192.43 Availability of lands to further lease offers where noncompetitive lease expires, is cancelled, relinquished or terminated.

* * * * *

(c) Each offer to lease must conform with the acreage requirements of § 192.42(d), and must be accompanied by separate remittances to cover payment of the filing fee and payment of the advance rental required by the regulations of this chapter. The remittance covering payment of the advance rental must be made by cash, money order, certified check, bank draft, or bank cashier's check. The filing fee may be paid by a similar remittance or by uncertified check.

FRED A. SEATON,
Secretary of the Interior.

MAY 24, 1960.

[F.R. Doc. 60-4864; Filed, May 31, 1960; 8:45 a.m.]

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Circular Distribution List

INT.DUP.,D.C.60- 75409

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2045]

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Adjudication of Grazing Privileges; Graduated Reduction for Hardship Cases

replaced by 2075

1. A new paragraph (r) is added to § 161.2, as follows:

§ 161.2 Definitions.

* * * * *

(r) "Adjudication of grazing privileges" is the determination of the qualifications for grazing privileges of the base properties, land (§ 161.2(k)(1)) or water (§ 161.2(p)(1)), offered in support of applications for grazing licenses or permits in a range unit or area, and the subsequent equitable apportionment among the applicants of the forage production within the proper grazing season and capacity of the particular unit or area of Federal range, and acceptance by the applicants of the grazing privileges based upon the apportionment or its substantiation in a decision by an examiner, the Director, or the Secretary upon appeal. (Applicable provisions are §§ 161.1 to 161.5, inclusive; § 161.6 (a) and (b); § 161.6(e) (1) to (4), inclusive; § 161.6 (f); § 161.6(g); § 161.9 and § 161.10.)

2. Paragraph (e)(3) of § 161.6 is amended, and subparagraph (1)(ii) is amended and new subparagraphs (3) and (4) are added to paragraph (f), as follows:

§ 161.6 Issuance of licenses and permits.

* * * * *

(e) *Terms and conditions.* * * *

(3) No license or permit will confer grazing privileges in excess of the grazing capacity of the Federal range to be used, as determined by the district manager, except as may be allowed under paragraph (f)(3) of this section.

* * * * *

(f) *Reduction.* (1) * * *

(ii) Regular licenses or permits to the extent, if any, to which they are in excess of the base property qualifications or have been otherwise improperly issued.

* * * * *

(3) When the district manager, after recommendation by the advisory board, determines that the imposition of the full amount of certain reductions in grazing privileges from current licensed or permitted use necessary to reach the grazing capacity of a range area would impose a serious hardship on the range users, he is not required to impose the full amount of the reduction forthwith, but will then schedule a percentage of the required reduction during each of the three years immediately following the determination as the circumstances of each case may warrant, except when the total reduction is less than fifteen percent it may not be so scheduled but will be imposed forthwith in the full amount.

(4) The district manager will notify each affected licensee or permittee by certified mail of his decision to make a reduction in grazing privileges to reach the grazing capacity of any Federal range area and of the manner in which the reduction is to be made. The district manager's decision notice will allow thirty days from receipt thereof in which to file any desired appeal in accordance with § 161.10 of this part. If no appeal is filed within the thirty-day period, the reduction will be made in accordance with the district manager's decision, and no further appeal will be allowed even though the reduction may be scheduled under subparagraph (3) of this paragraph to cover a period of time up to three years. If any timely appeal is filed after receipt of the district manager's decision notice, the reduction for the entire Federal range area under consideration will be deferred pending the completion of the appeal and hearing procedure. Any reduction provided by the ultimate decision will be applied to its full extent immediately after the effective date of that decision. If, however, the final decision on appeal is rendered within the three-year reduction period established by the decision notice of the district manager, the required adjustment may be apportioned over the remaining portion of that period. In the event that the orderly administration of the range or other public interest so requires, any decision may be placed in full force and effect in accordance with the provisions of § 161.10(i)(2).

FRED A. SEATON,
Secretary of the Interior.

JUNE 1, 1960.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER H—GRAZING

[Circular 2046]

PART 160—GRAZING LEASES

PART 161—THE FEDERAL RANGE CODE FOR GRAZING DISTRICTS

Compensation for Loss of Improvements; Restrictions in Gathering Unlicensed Horses and Burros From Public Lands

1. Paragraph 160.12(a) is amended to read as follows:

§ 160.12 Lease lands subject to disposition; compensation to lessee for loss of improvements.

(a) Lands embraced in a grazing lease are subject to disposition under the provisions of the Act of June 28, 1934 (48 Stat. 1272, 1274), as amended, or other public land laws. Before any application for such disposition is allowed, evidence must be furnished that the applicant has agreed to compensate the lessee and the United States for any grazing improvements placed on the lands under the authority of the lease, permit, or cooperative agreement in an amount and manner to be mutually agreed upon. If such improvements have been constructed in whole or in part with Federal funds and are administered by the Bureau of Land Management, and the application for disposal is in satisfaction of any lieu or indemnity selection right of any State under R.S. 2275, as amended (43 U.S.C. 851), such application may be allowed in the discretion of the authorized officer without compensation to the United States for its share of the value of the improvements, if the authorized officer shall first determine that the grazing improvements are no longer used or needed by the United States for the purpose for which the improvements were constructed and that the probable salvage value is insufficient to warrant the expense of removal of the salvageable materials in such improvements. If the parties are unable to agree as to the amount, manner, and time for compensation for such improvements, the amount, manner, and time shall be fixed by the authorized officer. The failure of the applicant to comply with the agreement or the conditions fixed by the authorized officer shall be just cause for cancellation of any right or interest in the lands acquired by the applicant by reason of the allowance of his application.

2. Paragraph 161.12(c)(2) is amended to read as follows:

§ 161.12 Procedure for enforcement of rules and regulations.

* * * * *

(c) *Unlawful grazing on Federal range; removal of livestock; impoundment.* * * *

(2) In any case where the owner of the trespassing livestock, or his representative, is unknown, or where conservation of the Federal range and of the forage thereon requires it, the district manager when so authorized by order of the State Supervisor may take steps to remove the trespassing livestock by such methods and by such means not inconsistent with legislation which prohibits the use of airborne or motor-driven vehicles in the gathering of horses and burros, as may be necessary, and to dispose of them by sale or otherwise within not less than 48 hours after public notice of his intention to make such disposition, subject to the right of any owner or registered lien holder of such trespassing livestock to redeem the livestock within such nondisposal period upon payment of (i) the value of the forage consumed, (ii) damage to the Federal range and other property of the United States, and (iii) the cost of such impoundment and removal, as determined by the district manager.

3. Paragraph 161.15(g)(2)(i) is amended to read as follows:

§ 161.15 Construction and maintenance of improvements on the Federal range.

* * * * *

(g) *Applications for lands containing range improvements; compensation; reservation.* * * *

(2)(i) When the disposal application covers public land upon which range improvements have been placed by the United States, or pursuant to a cooperative agreement heretofore or hereafter entered into between the Bureau and the licensee, permittee, and/or other cooperators, the disposal application will be referred by the land office manager to the district manager for determination as to whether it may be allowed, notwithstanding such improvements, and, if so, whether with or without a reservation. If the application is to be allowed without a reservation of the improvements, the applicant may be required to agree in writing to compensate for the loss of such improvements in the amounts to be mutually agreed upon and payable separately to the Bureau and to the cooperators. If such improvements have been constructed in whole or in part with Federal funds and are administered by the Bureau of Land Management, and the application for disposal is in satisfaction of any lieu or indemnity selection right of any State under R.S. 2275, as amended (43 U.S.C. 851), such application may be allowed in the discretion of the authorized officer without compensation to the United States for its share of the value of the improvements, if the authorized officer shall first determine that the grazing improvements are no longer used or needed by the United States for the purpose for which the improvements were constructed and that the probable salvage value is insufficient to warrant the expense of removal of the salvageable materials in such improvements. In the event of disagreement, the district manager shall determine the total amount of compensation due, as provided in paragraph (e) of this section, and the time for payment. Such amount

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER G—EXCHANGES

[Circular No. 2047]

PART 147—EXCHANGES BY STATES UNDER TAYLOR GRAZING ACT

Application for Exchange

The title to § 147.4 is amended and a new paragraph (c) is added to that section, reading as follows:

§ 147.4 Application for exchange; evidence required; segregative effect of application.

* * * * *

(c) The filing of a valid application for exchange under the regulations of this part will segregate the selected public lands to the extent that any subsequently tendered application, allowance of which is discretionary, will not be accepted, will not be considered as filed, and will be returned to the applicant. Where an application is withdrawn or finally rejected in whole or in part, the segregative effect of the application on the lands covered by the recall or rejection will terminate at 10:00 a.m. on the 30th day from and after the date a notice of the withdrawal or rejection is first posted in the land office having jurisdiction over said lands.

FRED A. SEATON,
Secretary of the Interior.

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Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

Circular 2048

Part 200—Mineral Deposits in Acquired Lands and Under Rights-of-Way

LEASING UNDER THE MINERAL LEASING ACT FOR ACQUIRED LANDS

Sec.

200.1 Purpose and authority.
200.2 Lands and deposits to which the act does not apply.
200.3 Stipulations and consent of agency having jurisdiction of land; notification to other parties controlling surface.
200.4 Other regulations applicable: Lease forms, applications, and offers.
200.5 Supplemental information required in offers and applications for leases and permits; place of filing.
200.6 Restrictions on holdings.
200.7 Leases of future or fractional interests.
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200.10 Sale or conveyance of lands.
200.11 Pending applications; use of new Form 4–1196.

LEASING OF MINERAL DEPOSITS OTHER THAN OIL, GAS, OIL SHALE, COAL, PHOSPHATE, POTASSIUM, SODIUM AND SULPHUR IN CERTAIN ACQUIRED LANDS

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200.33 Outstanding prospecting permits and leases.
200.34 Filing and contents of application; filing fee; acreage limitation; qualifications; priority rights.
200.35 Terms and conditions of prospecting permits; rental; bonds.
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OIL AND GAS LEASING IN LANDS UNDER RIGHTS-OF-WAY

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200.84 Royalties.
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200.87 Form of bond.

SOURCE: §§ 200.1 to 200.87 appear at 19 F. R. 9037, Dec. 23, 1954.

CROSS REFERENCE: For operating regulations see 30 CFR Part 221.

LEASING UNDER THE MINERAL LEASING ACT FOR ACQUIRED LANDS

AUTHORITY: §§ 200.1 to 200.11 issued under sec. 10, 61 Stat. 915; 30 U. S. C. 359.

§ 200.1 Purpose and authority.

(a) The Mineral Leasing Act for Acquired Lands, enacted on August 7, 1947 (61 Stat. 913; 30 U.S.C. 351–359), and referred to in this section and in §§ 200.2 through 200.10, as "the act," authorizes the Secretary of the Interior to issue permits and leases for deposits of oil, gas, oil shale, coal, phosphate, sodium and potassium in lands acquired by the United States subject to the same conditions as contained in the mineral leasing laws of February 25, 1920 (41 Stat. 437), as amended (30 U.S.C. 181–263), February 7, 1927 (44 Stat. 1057), as amended (30 U.S.C. 281–287), and in all laws which amend or supplement these mineral leasing laws. The act also authorizes the issuance of permits and leases for sulphur deposits in such acquired lands, wherever situated, subject to all other conditions contained in the act of April 17, 1926 (44 Stat. 301), as amended (30 U.S.C. 271–276).

(b) The authority conferred upon the Secretary by the act, supersedes the authority conferred upon him by section 402 of Reorganization Plan No. 3, effective July 16, 1946 (3 CFR 1946 Supp., chapter IV), as to the above-enumerated minerals, except as to leases or permits outstanding on August 7, 1947.

§ 200.2 *Lands and deposits to which the act does not apply.*

The act does not apply to lands:

(a) Acquired for the development of their mineral deposits,

(b) Acquired by foreclosure or otherwise for resale,

(c) Reported as surplus under the Surplus Property Act of October 3, 1944 (58 Stat. 765; 50 U.S.C. 1611 et seq.).

(d) In incorporated cities, towns, and villages,

(e) In national parks and monuments,

(f) Set apart for military or naval purposes, including lands within naval petroleum and oil shale reserves, or

(g) Which are tide lands, submerged coastal lands, within the continental shelf adjacent or littoral to any part of land within the jurisdiction of the United States.

§ 200.3 Stipulations and consent of agency having jurisdiction of land; notification to other parties controlling surface.

(a) Leases or permits may be issued only with the consent of the head or other appropriate official of the executive department, independent establishment or instrumentality having jurisdiction over the lands containing the deposits, or holding a mortgage or deed of trust secured by such lands, and subject to such conditions as that official may prescribe to insure adequate utilization of the lands for the primary purpose for which they were acquired or are being administered.

(b) All applications and offers for permits or leases should name, if practicable, the Government agency from which consent to the issuance of a permit or lease must be obtained, or the agency that may have title records covering the ownership of the mineral interest involved, and identify the project, if any, of which the land is a part. Permits or leases to which such consent is necessary will not be issued until the lessee or permittee executes such stipulations as may be required by the consenting agency.

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(c) Where the United States has conveyed the title to, or otherwise transferred the control of the surface of the lands containing the deposits to any State or any political subdivision, agency or instrumentality thereof, or a college or any other educational corporation, or association, or a charitable or religious corporation or association, such party shall be given written notification by certified mail of the application for the permit or lease, and shall be afforded a reasonable period of time within which to suggest any stipulations deemed by it to be necessary for the protection of existing surface improvements or uses to be included in the permit or lease, setting forth the facts supporting the necessity thereof, and also to file any objections it may have to the issuance thereof. Where such party opposes the issuance of the permit or lease, the facts submitted in support must be carefully considered and each case separately decided on its merits. However, such opposition affords no legal basis or authority to refuse to issue the permit or lease for the reserved minerals in the lands; in such case, the final determination whether to issue the permit or lease depends upon whether the interests of the United States would best be served thereby.

§ 200.4 Other regulations applicable: Lease forms, applications, and offers.

Except as otherwise specifically provided in §§ 200.1 to 200.11, inclusive, the regulations prescribed under the mineral leasing laws, and contained in Parts 191 to 198, inclusive, of this chapter, shall govern the disposal and development of minerals under the act to the extent that they are not inconsistent with the provisions of the act. All present interest acquired lands oil and gas leases whether the Government's interest be full or fractional shall be issued on Form 4–1196. Future interest and fractional future interest leases shall be issued on Form 4–1097.

§ 200.5 Supplemental information required in offers and applications for leases and permits; place of filing.

(a) Each offer or application for a lease or permit must contain (1) a statement that applicant's interest, direct or indirect, in leases, permits, or applications for similar minerals does not exceed a maximum chargeable acreage permitted to be held for that mineral in federally owned acquired lands in the same State, and (2) a complete and accurate description of the lands for which a lease or permit is desired. If the lands have been surveyed under the rectangular system of public land surveys, and the description can be conformed to such survey system, the lands must be described by legal subdivision, section, township, and range. Where the description cannot be conformed to the public land survey, any boundaries which do not so conform must be described by metes and bounds, giving courses and distances between successive angle points with appropriate ties to established survey corners. If not so surveyed and if within the area of the public land surveys[1] the lands must be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected with an official corner of those surveys by courses and distances. If not so surveyed and the tract is not within the area of the public land survey,[1] it must be described in a manner consistent with the description in the deed under which it was acquired, amplified where the deed description does not supply them, to include the courses and distances between the successive angle points on the boundary of the tract, and adequately shown on a plat or map to permit its location within the administrative unit or project of which it is a part. In all cases the description should, if practicable, refer to (i) the administrative unit or project of which the land is a part, the purpose for which the land was acquired by the United States, and the name of the governmental body having jurisdiction over the land, (ii) the names of the persons who conveyed the lands to the United States, (iii) the date of such conveyance, and the place, liber and page number of its official recordation.

(b) An application or offer under the act must be filed in the proper land office as set forth in § 200.8 (b). Such application or offer will be considered only as to the acquired lands described therein. If public domain lands or minerals are also included the application or offer will be rejected as to such lands or minerals.

§ 200.6 *Restriction on holdings.* The amount of acquired lands acreage that may be held under lease or permit either directly or indirectly, individually or as a member of an association or a corporation may not be in excess of the amount of public domain acreage for the same minerals permitted to be held under the mineral leasing laws. Public domain lease holdings shall not be charged against acquired lands lease holdings; such respective holdings shall not be interchargeable. Where the United States owns only a fractional interest in the mineral resources of the lands involved, only that part of the total acreage involved in the lease which is proportionate to the ownership by the United States of the mineral resources therein shall be charged as acreage holdings. The acreage embraced in a future interest lease is not to be charged as acreage holdings until the lease for the future interest takes effect.

§ 200.7 *Leases of future or fractional interests*—(a) *General.* Subject to the provisions of section 3 of the act, noncompetitive leases for future or fractional interests in lands believed, but not known to contain mineral deposits may be issued whenever the public interest will be best served thereby. There is no required form for applications or offers for noncompetitive leases of any mineral subject to the act, except oil and gas. However, such applications and requests to have leases offered competitively for lands known to contain mineral deposits should, to the extent applicable, conform to and include the information required by §§ 200.3, 200.4, 200.5, and this section. The terms and conditions of leases covering future or fractional interests in mineral deposits other than oil and gas, of competitive leases for future or fractional interests in oil and gas deposits within the known geological structure of a producing oil or gas field, and of compensatory royalty agreements under § 192.7 of this chapter covering future or fractional interests, will be established on an individual case basis.

(b) *Offers to lease and leases covering future interests in oil and gas deposits.* A noncompetitive lease for a whole or fractional future interest will be issued only to an offeror who owns all or substantially all of the present operating rights to the minerals in the lands in the offer as mineral fee owner, as lessee or as an operator holding such rights. An application for a future interest lease filed less than one year prior to the date of the vesting in the United States of the present interest in the minerals will be rejected. Upon the vesting in the United States of the present possessory interest in the minerals, all applications for future interest leases outstanding at that time will automatically lapse and thereafter only offers for a present interest lease will be considered. There is no required form for an application or offer to lease a whole or fractional future interest. The application or offer

[1] Lands "within the area of the public land surveys" are those north and west of the Ohio and Mississippi Rivers (except Texas) and in the States of Mississippi, Alabama, Florida, and Alaska.

therefor should, however, to the extent applicable, conform to and include the information required by §§ 200.3, 200.4, 200.5 and must be accompanied by a certified abstract of title containing record evidence of the creation of, and offeror's right to, the claimed mineral interest. If the offeror acquired the operating rights under a lease or contract, the offer shall also be accompanied by three copies of such lease or contract. In lieu of an abstract, a certificate of title may be furnished. A future interest offer may include tracts in which the United States owns a fractional present interest as well as the future interest for which a lease is sought, but it shall not include tracts where the United States owns the entire mineral interest at the time the offer is made. Future interest leases will become effective on the date when the United States becomes vested with the mineral rights as stated in the lease. Where the effective dates of the vesting of the Government's title to the minerals are different for different tracts, separate leases covering each of such different tracts will be issued.

(c) *Supplemental agreement as consideration for issuance of lease on future interest in oil and gas deposits.* As part of the consideration for the issuance of a future interest oil and gas lease and as supplemental thereto, the applicant shall execute and file in triplicate Form 4–1155 "Agreement Supplemental to Lease of Oil and Gas Lands Under the Mineral Leasing Act for Acquired Lands". Such agreement will provide for the payment of annual rental in advance at the rate of 25 cents an acre for each tract until the future interest therein becomes possessory or until production is had on the lands described in the lease. After discovery, and until the lease becomes effective as to the respective tracts, the agreement will provide for the payment of a royalty on production, not less than 25 cents per acre per annum, at the particular rate that is applicable: when the interval from the date of receipt of said lease application to the date that the future interest will become possessory is:

	Percent
Not more than 5 years	5
More than 5 years, but not more than 10 years	4
More than 10 years, but not more than 15 years	3
More than 15 years	1

Such agreement will be effective as of the date the lease issues. Such agreement will govern the relationship of the applicant and the United States between its effective date and the respective dates when the lease becomes effective as to each future interest, as set forth in the lease. Where the United States owns both a fractional interest and a fractional future interest in the minerals in the same tract, the supplemental agreement will cover only the fractional future interest in that tract. The lease when issued shall cover both the present and future interests in the land and shall be effective for the present interest held by the United States as of the date for which the lease issues. In such cases and also in all cases where the United States owns only part of the future mineral interest the percentage of royalty specified in the supplemental agreement shall apply to the fractional future interest in that proportion. In lieu of a provision in the agreement for the payment of royalty by the future interest lease holder, the applicant, if not the owner of the present mineral interest, may obtain and file with the Bureau of Land Management an instrument executed in duplicate by the present mineral owner conveying or assigning to the United States the royalty interest set forth in the agreement applicable to the particular term of years which will elapse before the United States becomes the owner of the mineral rights. If found acceptable, one original of such assignment will be returned to the applicant for recordation at his expense and for return to the Bureau of Land Management. In such case, the supplemental agreement should have endorsed on it by the applicant the statement that the assignment of such royalty interest to the United States is recognized by the holder of the agreement.

(d) *Offers for fractional interest oil and gas leases other than future fractional interests.* An offer for a fractional present interest noncompetitive lease must be executed on Form 4–1196 and must be accompanied by a statement showing whether the offeror owns the entire operating rights to the fractional mineral interest not owned by the United States in each tract covered by the offer to lease, and if not, the extent of the offeror's ownership in the operating rights in each tract, and the names of other parties who own operating rights in such fractional interests. Ordinarily, the issuance of a lease to one who, upon such issuance, would own less than a majority interest of the operating rights in any such tract, will not be regarded as in the public interest, and an offer leading to such result will be rejected.

§ 200.8 *Offer to lease and issuance of lease.* (a) To obtain a present interest noncompetitive oil and gas lease, whether the Government's interest be whole or fractional, an offer to lease must be made on Form 4–1196, "Offer to Lease and Lease for Oil and Gas; Noncompetitive Acquired Lands" or an unofficial exact one page copy of the approved form. The unofficial copies shall include the following statement: "This form is an exact copy of Form 4–1196". Form 4–1196, or a valid reproduction, will constitute the lease, when signed by the authorized signing officer of the Bureau of Land Management.

(b) Seven copies of Form 4–1196 or valid reproduction thereof, for each offer to lease shall be filed in the land office for the State or land district in which the land is situated, or for land or deposits in States for which there are no land offices, with the Bureau of Land Management, Washington 25, D. C., except that offers for lands or deposits in North or South Dakota, must be filed in the land office at Billings, Montana; for lands or deposits in Nebraska or Kansas in the land office at Cheyenne, Wyoming; and for lands or deposits in Oklahoma and Texas in the land office at Santa Fe, New Mexico. If less than seven copies are filed, the offer will not be rejected, if not otherwise subject to rejection, until 30 days from filing have elapsed and if during that period the remaining required copies are filed, the offeror's priority will date from the date of the first filing. If the additional copies are not filed within the 30-day period, the offer will be rejected and returned and will afford no priority to the offeror. Should the additional copies be filed after the 30-day period but before the offer has been rejected, the offeror will have a priority as of the later filing date. The offer must be filed on a form in effect at the date of filing. For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

(c) One of the copies of the offer first filed should be prominently marked as the "original" by the offeror. If not so marked by the offeror one copy of the offer will be marked "original" by the Bureau of Land Management. The copy marked "original" will govern as to the lands to be covered by the lease. Each offer should specify, if possible, the name of the governmental agency having jurisdiction over the surface of the land and also the unit of the project involved.

(d) Each offer must be filled in by typewriter or printed plainly in ink and signed in ink by the offerer or the offerer's duly authorized attorney in fact or agent. An offer may be made by a legal guardian or trustee in his name for

the benefit of non-alien minors or incompetents. Offers may not be filed by minors or incompetents. Each offer must describe the lands as required by § 200.5(a). An offer may not include more than 2,560 acres except where the rule of approximation applies. The lands in the offer must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. If the offer is for lands in which the Government has only a future interest in the oil and gas, the offerer must file the additional showing required by § 200.7(b) and execute the supplemental agreement required by § 200.7(c).

(e) Each offer, when first filed, shall be accompanied by:

(1) A filing fee of $10 which will be retained as a service charge even though the offer be rejected or withdrawn by offeror in whole or in part.

(2) Full payment of the first year's rental based on the total acreage if known, or if not known, on the basis of 40 acres for each smallest legal subdivision, or on the computed acreage included within a metes and bounds description.

(3) Evidence of the authority of an attorney in fact or agent who signs the offer and lease on behalf of the offeror except that this shall not apply to an officer of a corporation signing an offer on behalf of the corporation; and in addition if the offeror is an individual, a statement signed by him stating his citizenship and whether his direct and indirect interests in oil and gas leases, applications, and offers for acquired land in the same State exceed 46,080 chargeable acres.

(4) If the offer is signed by an attorney in fact or agent, or if any attorney in fact or agent has been authorized to act on behalf of the offeror with respect to the offer or lease, separate statements over the signatures of the attorney in fact or agent and the offeror stating whether or not there is any agreement or understanding between them, or with any other person, either verbal or written by which the attorney in fact or agent or such other person has received, or is to receive, any interest in the lease when issued, including royalty interest or interest in an operating agreement under the lease giving full details of the agreement or understanding, if it is a verbal one; the statement must be accompanied by a copy of any such written agreement or understanding; and if such an agreement or understanding exists, the statement of the attorney in fact or agent should set forth the citizenship of the attorney in fact or the agent or other person and whether his direct and indirect interests in oil and gas leases, applications, and offers therefor for acquired land in the same State exceed 46,080 acres. This paragraph does not apply where the attorney in fact or agent is a member of an unincorporated association (including a partnership) or is an officer of a corporation and has an interest in the offer or the lease to be issued solely by reason of the fact that he is a member of the association or a stockholder in the corporation.

(5) If the offer is made by a guardian, committee, or trustee, a certified copy of the court order authorizing him to act as such and to enter into the lease in behalf of the minor or incompetent, and a statement as to the citizenship and holdings of the minor or incompetent.

(6) If the offer is made by an association (including a partnership), it must be accompanied by a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(f) If the offeror is a corporation the offer must be accompanied by a statement showing (1) the State in which it is incorporated, (2) that it is authorized to hold oil and gas leases and that the officer executing the lease is authorized to act on behalf of the corporation in such matters, (3) the percentage of voting stock and of all the stock owned by aliens or by those having addresses outside of the United States, and (4) the names and addresses of the stockholders holding 20 percent or more of the stock of the corporation. When the stock owned by aliens is over 10 percent, additional information may be required by the Bureau before the lease is issued or production is obtained. A separate showing of citizenship and holdings of stockholders owning or controlling 20 percent or more of the stock of any class must also be furnished. Where such material has previously been filed, a reference by serial number to the record in which it has been filed, together with a statement as to any amendments will be accepted.

(g) (1) Except as provided in subparagraph (2) of this paragraph an offer will be rejected and returned to the offeror and will afford the applicant no priority if:

(i) The land description does not comply with the requirements of § 200.5(a) or the lands are not entirely within an area of six miles square or within an area of six surveyed sections in length or width.

(ii) The total acreage exceeds 2,560 acres, except where the rule of approximation applies.

(iii) The full filing fee and the first year's rental do not accompany the offer, the rental payment to be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest legal subdivision.

(iv) The offer is signed by an agent in behalf of the offeror and the offer is not accompanied by a statement over the offeror's own signature with respect to holdings and citizenship and by the statements and evidence required by paragraph (e) (4) of this section.

(v) The offer is signed by a guardian or trustee in behalf of a minor and is not accompanied by the evidence required by paragraph (e) (5) of this section.

(vi) Less than seven copies of the offer are filed and the copies lacking are not received in the land office before the expiration of 30 days from the date of receipt of the copies first filed.

(vii) There is noncompliance with item 5 (a) of the Special Instructions. The offeror will be given an opportunity to file a new offer within 30 days from service of the rejection, and the fee and rental payments on the old offer will be applied to the new offer if the new offer shows the serial and receipt numbers of the old offer. The advance rental will be returned unless within the 30-day period another offer is filed.

(2) An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

(i) An offer deficient in the first year's rental by not more than 10 percent. The additional rental must be paid within 30 days from notice under penalty of cancellation of the lease.

(ii) An offer covering not more than 10 percent over the maximum allowable acreage of 2,560 acres. The lease will be approved for 2,560 acres in the discretion of the signing officer or so much over that amount as may be included under the rule of approximation.

(iii) An offer completed in pencil or script.

(iv) An offer on a lease form not currently in use.

(v) An offer or a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

(h) An offer may not be withdrawn, either in whole or in part, unless the withdrawal is received before the lease, an amendment of the lease (Form 4–1163) or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

(i) (1) The United States will indicate its acceptance of the lease offer, in whole

or in part, and the issuance of the lease by the signature of the appropriate officer thereof in the space provided. An executed copy of the lease will be mailed to the offeror at the address of record.

(2) Leases for a whole or fractional future interest will be issued on Form 4–1097. Such leases will be sent to applicant or offeror for execution and return to the proper land office for execution by the appropriate officer. Thereafter, an executed copy will be mailed to lessee.

(j) If any of the land described in item 2 of the offer is open to oil and gas filing when the offer is filed but is omitted from the lease for any reason and thereafter becomes available for leasing to the offeror, the original lease will be amended to include the omitted land unless before the issuance of the amendment to Form 4–1196, the office where the offer was filed received a withdrawal of the offer as to such land or an election to receive a separate lease in lieu of an amendment. Such election shall consist of a signed statement by the offeror asking for a separate lease accompanied by a new offer on Form 4–1196 describing the remaining lands in his original offer, executed pursuant to this section. The new offer will have the same priority as the old offer. It need not be accompanied by the filing fee. The rental payment held on the original offer will be applied to the new offer. The rental and the lease term for the land added by such an amendment shall be the same as if the land had been included in the original lease when it was issued. If a separate lease is issued, it will be dated in accordance with § 192.40a of this chapter.

(k) A transfer of the whole interest in all or any part of the offer may be approved as an incident to the transfer, by assignment or otherwise, of the whole interest in all or any part of the lease. A transfer of an undivided fractional interest in the whole offer may be approved as an incident to the transfer of an undivided fractional interest in the whole lease. An application for approval of a transfer of an offer must include a statement that the transferee agrees to be bound by the offer to the extent that it is transferred and must be signed by the transferee. In other instances transfers of an offer will not be approved prior to the issuance of a lease for the lands or deposits covered by the said transfers.

(l) If an offeror dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed. If probate has been completed, or is not required, the lease will be issued to the heirs or devisees. However, before the lease is issued the executor or administrator, or the heirs or devisees, as the case may be, must file an offer to lease on Form 4–1196. Such offer will retain the priority of the deceased's offer. If there are any minor heirs or devisees, such offer can only be made by their legal guardian or trustee in their behalf. Each such offer must be accompanied by the following information:

(1) Where probate of the estate has not been completed;

(i) Evidence that the executor or administrator has authority to act as such and to sign the offer and if required, the bond forms.

(2) Where the probate or administration of the estate has been completed;

(i) A certified copy of the decree of distribution.

(3) Where no administration or probate proceedings are required;

(i) A statement signed by the heirs that they are the only heirs of the offeror, citing the provisions of the law of the deceased's last domicile showing that no probate or administration is required.

§ 200.9 *Exchange leases.* (a) Oil and gas leases, outstanding on August 7, 1947, and which cover lands subject to the act, may be exchanged for new leases to be issued under the act. New leases shall be issued for a term of five years and so long thereafter as oil or gas is produced in paying quantities, and shall be dated to be effectve as of the first of the month after the filing of the application to exchange. The rental rates for the new lease, for lands not within the known geologic structure of a producing oil or gas field at the time of the filing of the application for exchange, shall be the same as those set forth in § 192.80 (a) of this chapter, and the royalty rate for such lands shall be 12½ percent. For all other lands, the rental rate for the new lease shall be $1.00 per acre per annum, and the royalty requirements shall be the same as those stipulated in the lease offered in exchange.

(b) Coal, phosphate, sodium, potassium, sulphur, or oil shale leases, outstanding on August 7, 1947, and which cover lands subject to the act, may be exchanged for new leases to be issued under the act subject, in each case, to such appropriate conditions as may be prescribed.

§ 200.10 *Sale or conveyance of lands.* Any sale or conveyance of lands subject to the act by the agency having jurisdiction thereof, shall be subject to any lease or permit theretofore issued under the act.

§ 200.11 *Pending applications; use of new Form 4–1196.* Applications filed prior to the effective date of the amended regulations in this part will be processed in accordance with the regulations in effect immediately prior to such date and leases will continue to be issued in such cases on Form 4–1097, except:

(a) An applicant may, without losing his priority, file Form 4–1196 for the land described in his application, pursuant to § 200.8, without paying another filing fee if it has already been paid.

(b) When required, the holder of an application filed prior to the effective date of §§ 200.3, 200.4, 200.5, 200.6, 200.7 (a), (b) and (d) and 200.8 must, within 30 days from receipt of notice, file an offer of lease (Form 4–1196) covering the same land in, and bearing the same serial number as his pending application. No additional filing fee will be required. Priority of the original application will be retained. Failure, upon demand to refile will result in the rejection of the original application without further notice.

(c) From the date of issuance of §§ 200.3, 200.4, 200.5, 200.6, 200.7 (a), (b) and (d) and 200.8 until their effective date, filings for leases may be made on Form 4–1196, or in accordance with the prior regulations in this part.

LEASING OF MINERAL DEPOSITS OTHER THAN OIL, GAS, OIL SHALE, COAL, PHOSPHATE, POTASSIUM, SODIUM, AND SULPHUR IN CERTAIN ACQUIRED LANDS

§ 200.31 *Authority.* (a) Section 402, Reorganization Plan No. 3 of 1946 (60 Stat. 1099) transferred the functions of the Secretary of Agriculture and the Department of Agriculture relative to the leasing or other disposal of minerals in certain acquired lands to the Secretary of the Interior.

(b) Section 3 of the act of September 1, 1949 (63 Stat. 683) authorized the issuance of mineral leases or permits for the exploration, development and utilization of minerals, other than those covered by the Mineral Leasing Act for Acquired Lands, in certain lands added to the Shasta National Forest by the act of March 19, 1948 (62 Stat. 83)

(c) Section 3 of the act of June 23, 1952 (66 Stat. 285), authorized the Secretary of the Interior to administer, in the manner prescribed by section 402 of Reorganization Plan No. 3 of 1946, mineral deposits other than those subject to the provisions of the Mineral Leasing Act for Acquired Lands, in that part of the Juan Jose Lobato Grant Numbered 164, which lies northerly of the Chama River (North Lobato tract) and in part of the Anton Chica Grant Numbered 29 (El Pueblo tract) as more particularly described in section 1 of the act of June 28, 1952.

§ 200.32 *Scope.* (a) Sections 200.31 through 200.51 apply to the leasing or other disposal of minerals other than oil, gas, oil shale, coal, phosphate, potassium, sodium and sulphur.

(1) In acquired lands under the act of March 4, 1917 (39 Stat. 1134, 1150; 16 U. S. C. 520), Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 195, 200, 202, 205; 40 U. S. C. 401, 403 (a) and 408), the 1935 Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115, 118), section 55 of Title I of the act of August 24, 1935 (49 Stat. 750, 781), the act of July 22, 1937 (50 Stat. 522, 525, 530), as amended July 28, 1942 (56 Stat. 725; 7 U. S. C. 1011 (c) and 1018).

(2) In acquired lands, except Indian lands and lands in national parks and monuments, under the jurisdiction of the bureaus of the Department of the Interior where authorized by law.

(3) In those lands added to the Shasta National Forest by the act of March 19, 1948 (62 Stat. 83), which were acquired with funds of the United States, or lands received in exchange therefor.

(4) In those portions of the Juan Jose Lobato Grant (North Lobato tract) and of the Anton Chica Grant (El Pueblo tract) in New Mexico, mentioned in paragraph (c) of this section.

(b) Lands under jurisdiction of the Department of Agriculture. The Reorganization Plan and the Acts provide that mineral development may be permitted only with the consent of the Secretary of Agriculture and subject to such conditions as he may prescribe to protect the purposes for which the lands were acquired or are being administered. An application will be rejected if the Secretary of Agriculture does not give his consent. Any lease permit, or other instrument granting the right to mine or remove the minerals will contain such stipulations as may be specified by that official in order to protect such purposes. All matters relating to the surface of the land and its protection, including responsibility for securing compliance with all applicable regulations and procedures of the Department of Agriculture, the terms of the lease relating to the surface and surface resources, and the stipulations specified for the protection of the land, are functions of the Department of Agriculture. Lessees and permittees will comply with the applicable regulations of the Secretary of Agriculture and will consult with the authorized representative of the Secretary of Agriculture as to matters relating to the surface.

§ 200.33 *Outstanding prospecting permits and leases.* Prospecting permits and leases heretofore issued by the Department of Agriculture will continue to be administered by the Department of the Interior in accordance with the regulations under which they were issued.

§ 200.34 *Filing and contests of applications; filing fees; acreage limitation; qualifications; priority rights.* (a) While there is no required form for an application for a prospecting permit or lease, Form 4–1307 may be used for that purpose. If not, the application should:

(1) Specify the dominant mineral or minerals for which the lease or permit is sought;

(2) Name, if practicable, the branch of the Government agency having jurisdiction over the land and the administrative unit or project of which the land is a part;

(3) Contain a statement of applicant's citizenship; if a corporation, the State of incorporation and that it is authorized to hold a prospecting permit or lease, and a statement that applicant's interests, direct or indirect, in leases, prospecting permits or applications for minerals other than coal, phosphate, sodium, potassium, oil, oil shale, or gas in acquired lands in the same State, do not exceed the allowable acreage prescribed in paragraph (c) of this section.

(4) Contain a complete and accurate description of the lands for which the prospecting permit or lease is desired. If the lands have been surveyed under the rectangular system of public land surveys, and the description can be conformed to such survey system, the lands must be described by legal subdivision, section, township, and range. Where the description cannot be conformed to the public land survey, any boundaries which do not so conform must be described by metes and bounds, giving courses and distances between successive angle points with appropriate ties to established survey corners. If not so surveyed and if within the area of the public land surveys[1] the lands must be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected with an official corner of those surveys by courses and distances. If not so surveyed and the tract is not within the area of the public land survey,[1] it must be described in a manner consistent with the description in the deed under which it was acquired, amplified where the deed description does not supply them, to include the courses and distances between the successive angle points on the boundary of the tract, and adequately shown on a plat or map to permit its location within the administrative unit or project of which it is a part.

(b) An application for a prospecting permit or lease may be filed by any citizen or association of citizens of the United States, or corporations organized and existing under the laws of the United States or any State or Territory thereof.

(1) The application shall be filed in triplicate in the proper land office, or for lands or deposits in States in which there are no land offices, with the Director, Bureau of Land Management, Washington 25, D. C., except that applications for lands or deposits in the following States should be filed at the land offices named: North or South Dakota, land office at Billings, Montana; Nebraska or Kansas, at Cheyenne, Wyoming; Oklahoma or Texas, at Santa Fe, New Mexico. The application must be accompanied by a filing fee of $10 which is not returnable.

(2) An application for a prospecting permit must be accompanied by full payment of the first year's rental of 25 cents per acre or fraction thereof, but no less than $20.

(c) No applicant may hold more than 20,480 acres under prospecting permit and lease of which not more than 10,240 acres may be held under lease, provided, however, that the Secretary may authorize a lessee to hold under lease an additional 10,240 acres of land if he finds, upon a satisfactory showing submitted by the lessee that such additional acreage is necessary to promote the orderly development of mineral resources and does not result in undue control of the mineral to be mined, removed and marketed, but in no event shall a lessee hold in excess of 10,240 acres of leased land for the mining of any dominant single mineral, nor shall any person at any one time hold more than 20,480 acres under permit and lease in any one State.

(d) A prospecting permit may not include more than 2,560 acres, and will be issued to the first qualified applicant.[2] The lands in the permit must be entirely within an area of six miles square or within an area not exceeding six surveyed sections in length or width. An application for a prospecting permit which covers lands that are not located entirely within an area of six miles square or an area of six surveyed sections in length or width will be rejected in its entirety.

[1] Lands "within the area of the public land surveys" are those north and west of the Ohio and Mississippi Rivers (except Texas) and in the States of Mississippi, Alabama, Florida, and Alaska.

[2] A larger area may be granted under the "rule of approximation" in those States covered by the public land rectangular system. That rule applies to applications for prospecting permits only where elimination of the smallest legal subdivision involved would result in a deficiency of area under 2,560 acres greater than the excess over 2,560 acres resulting from the inclusion of such subdivision.

§ 200.35 *Terms and conditions of prospecting permits; rental; bonds.* (a) Prospecting permits are issued on Form 4–1099 for a period of 2 years and grant the permittee the exclusive right to prospect on and explore the described lands to determine the existence of, or workability of, the mineral deposits therein. Only such material may be removed from the land as is necessary to demonstrate the existence of commercial quantities thereof.

(b) A prospecting permit will require payment in advance by permittee of an annual rental of not less than 25 cents per acre or fraction of an acre, but no less than $20 per year. The permittee may also be required, as a condition precedent to the issuance of a permit, to furnish a permit bond.

(c) Prospecting may be carried on with the consent of the appropriate official of the Department, bureau or agency having jurisdiction over the land where no structures are to be erected, and no substantial excavations or disturbances of the surface will be made. Such prospecting shall not be deemed to vest in the prospector an exclusive right of exploration or a preference right to a lease under this part.

§ 200.36 *Extension of permit.* (a) A prospecting permit may be extended for one additional term of 2 years, in the discretion of the signing officer, upon written application made by the permittee and filed in triplicate in the proper land office within 90 days prior to the expiration date of the permit. Such application must be accompanied by a filing fee of $10, which is not returnable. In support of an application for extension of a prospecting permit, the permittee must show that he has diligently performed prospecting activities on the land during the period for which the permit was issued. This requirement may be dispensed with, in the discretion of the authorized officer, upon a satisfactory showing that the permittee's failure to perform diligent prospecting activities was due to conditions beyond permittee's control.

(b) Upon failure of the permittee to file an application for extension within the specified period, the permit will expire 30 days after the end of its primary term without notice to the permittee and the lands will thereupon become subject to new application for prospecting permits.

§ 200.37 *Reward for discovery; preference right lease; bond.* (a) Upon discovery of any valuable deposit of minerals the permittee shall be entitled to a preference right lease for the minerals in any or all of the lands in the permit except as provided for in § 200.32 (a).

(b) Should the issuance of the preference right lease, for the acreage applied for, increase the permittee's leased acreage beyond 10,240 acres, such preference right lease will not issue unless the permittee, within the time allowed by the signing officer, relinquishes sufficient of his leased lands to reduce the area of his leaseholds, including the area to be included in the preference right lease, to 10,240 acres except as provided for in § 200.34 (c).

(c) An application for a preference right lease must be filed in the proper land office not more than 30 days after the termination date of the primary or extended term of the permit, and must describe the lands for which the lease is desired; must contain a statement of permittee's interests, direct or indirect, in acquired lands mineral leases except leases covering the leasable minerals mentioned in § 200.32 (a); must disclose any change in the information contained in the application for the permit, specify fully the extent the mode of occurrence of the mineral deposit disclosed by the prospecting, and show that a valuable deposit of minerals was discovered before the expiration of the permit.

(d) The application must be accompanied by a payment of $1 for each acre or fraction thereof included in the application, but not less than $20. In no event shall the first year's rental on any lease be less than $20. The lease will be issued on Form 4–1100 and will be dated the first day of the month following the date of the decision notifying the applicant that he is entitled to a preference right lease, except that upon the applicant's request, the lease will be dated the first day of the month following the date the application is filed. If the permit expires and the application for lease is finally rejected, royalty for the deposits mined will be charged at the permit rate (12½ percent) and such mining will not constitute a trespass.

(e) The permittee shall be liable for and pay to the United States a royalty of 12½ percent of the gross value of the minerals mined at the point of shipment to market during the period prior to the effective date of the preference right lease, but no mining operations shall be carried on prior to the effective date of such lease except with the written consent of the agency having jurisdiction over the surface of the land and subject to such conditions as the authorized representatives of the agency shall prescribe.

(f) The terms and conditions of the lease, including the royalty rates, will be established on an individual case basis. If minerals other than that specified in the issued lease should be discovered and mined by the lessee an applicable royalty rate will be established by the lessor for such mineral. The lessee will be required to post a lease bond on Form 4–1301 or Form 4–1302 before the lease will be executed by the Government. The lease will be issued for a period of five or ten years, upon the advice of the agency having jurisdiction over the surface and the United States Geological Survey, with a right in the lessee to renew the same for successive periods of like duration under such reasonable terms and conditions as the Secretary of the Interior may prescribe, including the revision of or imposition of stipulations for the protection of the surface of the land as may be required by the agency having jurisdiction thereover. An application for renewal of the lease must be filed in manner similar to that prescribed for extension of a permit in § 200.36 (a) and the provisions of § 200.36 (b) are applicable to leases.

§ 200.38 *Suspension of operations and production.* (a) Applications by lessees for relief from the producing requirements or from all operating and producing requirements of mineral leases shall be filed in triplicate, in the office of the Regional Mining Supervisor of the Geological Survey and a copy thereof filed in the proper land office. Complete information must be furnished showing the necessity for such relief.

(b) The lease will be extended for the period of suspension of operations and production.

(c) A suspension shall take effect as of the time specified in the direction or assent of the Secretary or his authorized representative. Rental and minimum royalty payments will be suspended during any period of suspension of operations and production, beginning with the first day of the lease month on which the suspension of operations and production become effective or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension or rental and minimum royalty payments shall end on the first day of the lease month in which operations or production is resumed. Where rentals are creditable against royalties and have been paid in advance, proper credit will be allowed on the next rental or royalty due under the lease.

§ 200.39 *Mineral deposits subject to lease through competitive bidding; leasing units.* (a) Except for preference right leases, as set out in the preceding section, leases for lands containing valuable mineral deposits will be issued only to the qualified person who offers the highest bonus by competitive bidding,

either by oral auction or sealed bids or both, as provided in the published notice inviting bids for the issuance of a lease covering such deposits.

(b) Any qualified person may file an application for the competitive offering of such deposits. Leasing units may not exceed, in reasonably compact form, 2,560 acres of land described in the manner required by § 200.34 (4). The authorized officer may prescribe a lesser area for any mineral deposit if the Geological Survey reports that such lesser area is adequate for a logical mining unit.

§ 200.40 *Application for lease by competitive bidding.* (a) An application for a mineral lease through competitive bidding must be filed in triplicate in the appropriate land office. Form 4–1307 should be used for such an application, though its use is not mandatory. If this form is not used, the application should contain the information specified in § 200.34 and should be accompanied by evidence that the land applied for is valuable for the mineral deposits named therein, together with a statement as to the character, extent and mode of occurence thereof.

§ 200.41 *Notice of lease offer.* Notice of the offer of the mineral deposits for lease will be published once a week for 4 consecutive weeks, or for such other periods as the Bureau of Land Management may deem appropriate, in a newspaper of general circulation in the county in which the mineral deposits are situated. A copy of the notice will be posted in the proper Land Office during the period of publication. The notice will set the day and hour of sale, state whether the lease will be offered by oral auction bidding or by sealed bids, or both, and state that the successful bidder will be required to pay the cost of publishing the notice if only one parcel of land is involved. Where more than one parcel is offered, the successful bidder will be required to pay his proportionate share of such cost, which will be that proportion of the cost that the number of parcels awarded to the successful bidder bears to the number of parcels for which high bidders are declared. The notice will specify the place where the oral auction sale is to be held and where sealed bids are to be submitted, and other information pertinent to the offering. The notice will contain a warning to all bidders against violation of 18 U. S. C. 1860, which prohibits unlawful combination or intimidation of bidders. The notice shall also state that the Government reserves the right to reject any and all bids.

§ 200.42 *Bidding requirements; deposits.* (a) At a sale by oral auction the high bidder must deposit with the officer conducting the sale, on the day of the sale, one-fifth of the amount of his bid and at a sale by sealed bids each bidder must include with his bid one-fifth of the amount of the bid.

(b) If the sale is by oral auction and sealed bids, the oral auction sale will proceed first at the time and place specified therefor in the notice of offering, and the officer conducting the sale will, upon the termination of such oral auction bids, declare the high bidder. Thereupon, the officer conducting the sale will publicly, open and audibly, read all of the sealed bids which were received timely, and the lease will be awarded to the highest bidder, whether an oral auction bidder or a sealed bidder. The lease will be awarded to the high bidder, subject to the submission of proof of his qualifications.

(c) All deposits with bids including rental payments must be made by certified check, cashier's check, bank draft, money order, or cash. Deposits made on rejected or unsuccessful bids will be returned to the bidders.

§ 200.43 *Action by successful bidder.* Three copies of the lease to be awarded will be sent to the successful bidder who will be allowed 30 days from receipt in which to execute such lease, pay the balance of the bonus bid and the first year's rental in full, and file a surety bond in such amount as may be required, but not less than $500 on either of the bond forms specified in § 200.45, and furnish proof of citizenship and holdings as set forth in § 200.34 (a) (3). If the successful bidder, after being awarded the lease, fails or refuses to execute the same or to otherwise comply with the applicable regulations, his deposit will be forfeited.

§ 200.44 *Payments and reports.* Rentals under all leases and permits shall be paid to the Manager of the proper land office, as set forth in § 200.34 (b) (1), except that rentals and royalties on productive mining leases shall be paid to the Regional Mining Supervisor of the Geological Survey, with whom all reports concerning operations under the lease shall be filed. All remittances to the Bureau of Land Management shall be made payable to the Bureau of Land Management, those to the Geological Survey shall be made payable to the United States Geological Survey.

§ 200.45 *Bonds.* Corporate surety prospecting permit or lease bonds may be furnished on Form 4–1302. In lieu of a corporate surety bond, a personal prospecting permit or lease bond secured by negotiable United States bonds of a par value equal to the amount of the required surety bond, together with a power of attorney may be executed on Form 4–1301.

§ 200.46 *Approval of operating or development contracts without regard to acreage limitations.* (a) The Secretary of the Interior or his authorized representative may, by and with the concurrence of the Geological Survey, and on such conditions as may be prescribed, approve operating or development contracts, or processing or milling arrangements, made by one or more lessees with one or more persons, associations, or corporations, to justify operations on a large scale for the discovery, development, production or transportation of ores, whenever, in his discretion, and regardless of acreage limitations provided for in this part, the conservation of natural products or the public convenience or necessity may require it, or the interests of the United States may be best subserved thereby.

(b) Three executed copies of an operating or development contract submitted for approval under this provision must be filed in the proper land office, and a duplicate original with the Regional Mining Supervisor of the Geological Survey. The contract must be accompanied by a statement showing all of the interests held by the contractor designated in the contract in the area, and also the agreed or the proposed plan of operation or development of the leased lands. All of the contracts held by the same contractor, in the area, should be submitted at the same time and full disclosure of the project made.

§ 200.47 *Relinquishment of prospecting permit or lease.* The permittee or lessee may surrender the entire prospecting permit or lease or any legal subdivision thereof. If the lands are not described by legal subdivision, a partial relinquishment must describe definitely the lands surrendered and give the exact area thereof. A relinquishment must be filed in triplicate in the proper land office. Upon its acceptance, it will be effective as of the date it is filed, subject to the continued obligation of the permittee or lessee and his surety, to make payment of all accrued rentals and royalties, and to provide for the preservation of any mines or productive works or permanent improvements on the lands in accordance with the regulations and terms of the lease, and for the faithful compliance of all of the terms of the prospecting permit or lease.

§ 200.48 *Cancellation or termination of prospecting permit or lease.* (a) Except as provided for in paragraph (b) of this section, if a permittee or lessee fails to comply with the general regulations in force at the date of the prospecting permit or lease, or, as to a lease at the effective date of any readjustment of the terms and conditions thereof, or defaults with respect to any of the terms, covenants, or stipulations of the permit or lease, and such failure or default continues for 30 days after service of written notice thereof by the Government then the permit or lease may be cancelled. A waiver of any particular cause for cancellation shall not prevent the cancellation of the permit or lease for any other cause, or for the same cause occurring at any other time. Until such cancellation is noted on the appropriate records of the Land Office, the lands will not be open to further application for permit or lease.

(b) Any prospecting permit or lease shall terminate automatically if the permittee or lessee fails to pay the rental on or before the anniversary date of the permit or lease. However, if the time for payment falls upon any day in which the proper office to receive payment is not open, payment received on the next official working day shall be deemed to be timely.

(c) The termination of the permit or lease for failure to pay the rental must be noted on the official records of the proper land office. Until such notation is made, the lands included in such prospecting permit or lease are not subject to the issuance of any other prospecting permit or lease. Applications for such permits filed prior to such notation will be rejected.

§ 200.49 *Transfers, including subleases.* Prospecting permits and leases may be transferred in whole or in part. The approval of a transfer of part of the lands in a prospecting permit or lease will create a new prospecting permit or lease for the transferred portion. A discovery either on the retained or the assigned portion of a prospecting permit will not inure to the benefit of the other. Approval of a transfer will not extend the life of the prospecting permit or the readjustment periods of the lease. Transfers, whether by direct assignments, operating agreements, subleases, working or royalty interests, or otherwise, must be filed in triplicate in the proper land office within 90 days after execution, and must be accompanied by a filing fee of $10, which is not returnable. Evidence of the qualifications of the assignee or transferee to hold the permit or lease, as required by § 200.34 (a) (3) and (b) must be submitted together with an application for approval of the transfer. Before a transfer of a prospecting permit or lease will be approved, the transferee must submit a surety bond if the original permit or lease required the maintenance of a bond. A transfer will take effect the first day of the month following its approval, or if the transferee requests, the first day of the month of the approval.

§ 200.50 *Overriding royalties.* (a) An overriding royalty interest may be created by assignment or otherwise: *Provided, however,* That if the total of the overriding royalty interest at any time exceeds one percent of the gross value of the output at the point of shipment to market, it shall be subject to reduction or suspension by the Secretary of the Interior to a total of not less than one percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so in order (1) to prevent premature abandonment, or (2) to make possible the economic mining of marginal or low-grade deposits. Where there is more than one overriding royalty interest, any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof, or in the absence of such agreement, in the inverse order of the dates of creation of such interests.

(b) Any assignment, sublease, or other transfer or agreement which creates an overriding royalty interest, will not be approved unless the owner of that interest files his agreement in writing that such interest is subject to suspension or reduction as provided in paragraph (a) of this section. No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the Secretary of the Interior.

§ 200.51 *Fractional or future interest leases and permits.* (a) A prospecting permit for a fractional interest in mineral deposits or a lease for a fractional or future interest in mineral deposits acquired by the Government may be issued in the discretion of the authorized officer, by and with the consent of the appropriate Government bureau or agency having jurisdiction over the land in which such deposits are located. The terms and conditions of such permits and leases will be established on an individual case basis. No specific form of application for such permits or leases is required, but the application should contain the information required by § 200.34, as well as the information required by paragraphs (b) and (c) of this section where applicable. The application must be filed in triplicate in the proper land office accompanied by a filing fee of $10 which is not returnable.

(b) *Present fractional interest leases or permits.* An application for a present fractional interest prospecting permit or lease must show whether the applicant owns all of the fractional mineral interest not owned by the United States or all of operating rights thereto. An applicant for such a permit or lease must have a present interest in the minerals. If applicant does not own all of such mineral interests or all of the operating rights thereto, the extent of the applicant's rights thereto must be shown as well as the names of the other owners of such rights. Since the issuance of a permit or lease to one who, upon such issuance, would have less than a majority interest in the minerals or the operating rights thereto is not regarded as being in the Government's interest, an application for a permit or lease, the granting of which would lead to such result, may be rejected.

(c) *Future or fractional future interest leases.* An applicant for a prospecting permit for a fractional mineral interest or for a future or fractional interest lease must submit, with his application, title evidence of his present interest in the mineral deposits. This may be accomplished by a certified abstract of title or a certificate of title. If applicant is the owner of the operating rights to the minerals and acquired such rights under a lease from or contract with the owner of such minerals, the application should also be accompanied by three copies of such lease or contract. A whole or fractional future interest lease or a prospecting permit for a fractional interest will be issued only to an applicant who owns all or substantially all of the present operating rights to the minerals as fee owner, lessee, or operator holding such rights. Future interest leases will become effective on the date of vesting of title to the minerals in the United States as stated in the lease.

(d) *Rejection and termination of applications.* An application for a future interest lease filed less than one year prior to the date of the vesting in the United States of the present interest in the minerals will be rejected. Upon the vesting in the United States of the present possessory interest in the minerals, all applications for future interest leases outstanding at the time will automatically lapse and thereafter only offers for a present interest lease will be considered.

OIL AND GAS LEASING IN LANDS UNDER RIGHTS-OF-WAY

§ 200.80 *Lands in and under railroad and other rights-of-way.* The act of May 21, 1930 (46 Stat. 373; 30 U. S. C. 301–306) authorizes the Secretary of the Interior to lease deposits of oil and gas in and under railroad and other rights-of-way acquired under any law of the United States. The right of lease is restricted to the owner of the right-of-way, or his assignees.

§ 200.81 *Application for lease.* (a) No particular form of application for lease of land in a right-of-way will be required. Applications shall be filed in the proper land office in the State or Territory, or for lands in a State in which there is no land office, shall be filed with the Bureau of Land Management, Washington 25, D. C., except the applications for lands in North or South Dakota shall be filed in the land office at Billings, Montana; applications for lands in Nebraska or Kansas, shall be filed in the land office at Cheyenne, Wyoming; and for lands in Oklahoma, in the land office at Santa Fe, New Mexico. Such applications must be filed by the owner of the right-of-way or by his assignee and be accompanied by a filing fee of $10, and, if filed by an assignee, by a duly executed assignment of the right to lease.

(b) The application should detail the facts as to the ownership of the right-of-way, and of the assignment if the application is filed by an assignee; the development of oil and gas in adjacent or nearby lands, the location and depth of the wells, the production, and the probability of drainage of the deposits in the right-of-way. Since rights-of-way are of record in the Bureau of Land Management, a description by metes and bounds is not necessary or required, but each legal subdivision through which the portion of the right-of-way desired to be leased extends should be described.

§ 200.82 *Owner of adjoining land allowed to submit bid.* (a) After the Bureau of Land Management has determined that a lease of a right-of-way or any portion thereof is consistent with the public interest, either upon consideration of an application for lease or on his own motion, the manager of the land office will serve notice on the owner or lessee of the adjoining lands, as provided in section 3 of the act of May 21, 1930 (46 Stat. 374; 30 U. S. C. 303), allowing him 30 days or such other time as may be provided in the notice within which to submit an offer or bid of the amount or percentage of compensatory royalty such owner or lessee will agree to pay for the extraction through wells on his adjoining land of the oil and gas under and from such right-of-way. Notice to the owner of the right-of-way will be given at the same time allowing him opportunity within the same period to submit a bid or offer as to the amount or percentage of royalty he will pay if a lease is awarded to him.

(b) Award of lease to the owner of the right-of-way, or of a contract for the payment of compensatory royalty by the owner or lessee of the adjoining lands, will be made to the bidder whose offer is determined to be to the best advantage to the United States, considering the amount of royalty to be received and the better development of the oil and gas deposits in the right-of-way under the respective means of production and operation.

§ 200.83 *Term of lease and of compensatory royalty agreement.* The term of the lease will be for a period of not more than twenty years, and the compensatory royalty agreement will be for the period necessary to reasonably extract all oil and gas from the right-of-way.

§ 200.84 *Royalties.* The royalty to be charged will be fixed by the Bureau of Land Management, after consideration of all the facts and circumstances in each case, but will not be less than 12½ percent.

§ 200.85 *Form of lease.* The lease issued to the owner of the right-of-way or assignee of such owner will be substantially Form 4–213 modified to conform to the requirements of the law and these regulations.

§ 200.86 *Form of agreement to pay compensatory royalty.* The agreement with the owner or lessee of the adjoining land to pay compensatory royalty for the extraction through wells on his adjoining land of the oil and gas in or under the right-of-way will be substantially Form 4–1086.

§ 200.87 *Form of bond.* The bond required under section 2 (a) of the lease and by the contractor under agreement to pay compensatory royalty, should be substantially Form 4–208g.

This Circular replaces all circulars relating to Part 200, including: 1657; 1668; 1804; 1827; 1886; 1890; 1900; 1903; 1906; 1918; 1919; 1938; 2003; 2017; 2023 and those parts of 2034 and 2040 relating to Part 200.

GPO 907175

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Appendix—Public Land Order]

PART [illegible] OREGON AND CALIFORNIA [illegible] AND RECONVEYED [illegible] WAGON ROAD [illegible] OREGON

This Circular replaces all circulars relating to Part 200, including: 1657; 1668; 1804; 1827; 1885; 1890; 1905; 1906; 1914; 1915; 1930; 2003; 2017; 2023 and those parts of 1034 and 2040 relating to Part 200.

WO 907378

Title 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

SUBCHAPTER C—AREAS SUBJECT TO SPECIAL LAWS

[Circular No. 2049]

PART 115—REVESTED OREGON AND CALIFORNIA RAILROAD AND RECONVEYED COOS BAY WAGON ROAD GRANT LANDS IN OREGON

Sale of Timber

1. Paragraph (a) of § 115.21 is amended to read as follows:

§ 115.21 Negotiated sales.

(a) When it is determined by the authorized officer to be in the public interest, he may sell at not less than the appraised value, without advertising or calling for bids, timber not exceeding an estimated volume of 100 M board feet, or if the timber is not measured in board feet, a quantity not exceeding $2,000 in appraised value, to or for the benefit of any one person, partnership, association or corporation in any period of twelve consecutive months.

2. Subparagraph (1) of paragraph (b) of § 115.28 is amended to read as follows:

§ 115.28 Payments.

* * * * *

(b) * * *

(1) Installment payments shall be determined by the authorized officer. For sales up to $100,000 installment payments shall be not less than 10 percent. For sales over $100,000 installment payments shall be not less than $10,000. For cruise sales the first installment shall be paid prior to or at the time the authorized officer signs the contract. The second installment shall be paid prior to the commencement of cutting operations: *Provided, however,* That prior to paying the second installment the authorized officer may permit the purchaser to cut and remove timber on the location over which a road must be constructed under this contract if the purchaser pays for such timber in advance. Each subsequent installment shall be due and payable without notice when the value of the timber cut, equals the sum of all the payments minus the first installment. The total amount of the purchase price must be paid prior to 60 days before the expiration of the contract. The purchaser shall not be entitled to a refund on a cruise sale even though the amount of timber cut, removed or designated for cutting may be less than the estimated total volume shown in the contract.

PERMITS FOR RIGHTS-OF-WAY FOR LOGGING ROADS

3. Subparagraph (3) of paragraph (a) of § 115.174 is amended to read as follows:

§ 115.174 Terms and conditions of permit.

(a) * * *

(3) To take adequate precaution to prevent forest, brush, and grass fires; to endeavor with all available personnel to suppress any fire originating on or threatening the right-of-way on which a road is being used or constructed by the permittee or any fire caused by the permittee; to do no burning on or near the right-of-way without State permit during the seasons that permits are required and in no event to set fire on or near the right-of-way that will result in damage to any natural resource or improvement.

FRED G. AANDAHL,
Acting Secretary of the Interior.

AUGUST 5, 1960.

[F.R. Doc. 60-7478; Filed, Aug. 10, 1960; 8:47 a.m.]

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TITLE 43—PUBLIC LANDS: INTERIOR

Chapter I—Bureau of Land Management, Department of the Interior

[Circular 2050

PART 194—POTASSIUM PERMITS AND LEASES

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TRANSFERS OF PERMITS AND LEASES

194.24 Transfers, including subleases.
194.25 Overriding royalties.

AUTHORITY: §§ 194.1 to 194.25 issued under sec. 32, 41 Stat. 450; 30 U. S. C. 189. Interpret or apply secs. 1–7, 44 Stat. 1057, 1058, as amended, sec. 7, 47 Stat. 151; 30 U. S. C. 281–287.

GENERAL

§ 194.1 *Statutory authority.* (a) Sections 1 to 7 of the act of February 7, 1927, as amended (44 Stat. 1057, 30 U. S. C. secs. 281–287), authorize the Secretary of the Interior to:

(1) Issue permits to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium in public lands or in public lands disposed of with a reservation of such deposits to the United States.

(2) Lease such lands containing valuable deposits of such substances.

(b) As authorized in section 4 of the act, potassium leases may also provide for the development of sodium, magnesium, aluminum, or calcium deposits, in any of the forms described in said section, associated with the potassium deposits.

§ 194.2 *Definitions.* The following terms, as used in this part or in any lease or permit approved under the regulations in this part, shall have the meanings here given:

(a) *Secretary.* The Secretary of the Interior or any person duly authorized to exercise the powers vested in that officer.

(b) *Director.* The Director of the Bureau of Land Management or any person duly authorized to exercise the powers vested in that officer.

(c) *Land Office, or appropriate land office.* The land office of the Bureau of Land Management for the State or Territory in which the lands covered by a permit, lease, or application therefor, are situated; and for States in which there are no land offices, the Bureau of Land Management, Washington 25, D. C., except for North or South Dakota, the land office at Billings, Montana; for Nebraska or Kansas, the land office at Cheyenne, Wyoming; and for Oklahoma, the land office at Santa Fe, New Mexico.

(d) *Manager or Land Office Manager.* The Manager of the appropriate land office as defined in paragraph (c) of this section, and, as to the Washington, D. C., office, the Supervisor, Eastern States Office, Bureau of Land Management.

(e) *Mining Supervisor.* The Regional Mining Supervisor of the Geological Survey for the region in which the lands under permit or lease are situated.

§ 194.3 Area and limitation on holdings.

(a) Except where the rule of approximation applies, a lease or permit may not include over 2,560 acres in reasonably compact form entirely within an area of six miles square or an area of six survey sections in length of width. No person, association, or corporation may hold, either directly or indirectly in any one State permits for an area that exceeds in the aggregate 51,200 acres; and except as hereinafter provided, leases for an area that exceeds in the aggregate 25,600 acres in one or more mining units.

(b) Any person, association, or corporation holding acreage approximating 25,600 acres of Federal land, upon a showing that the leased deposits extend into adjoining or adjacent Federal lands and that the lands containing such reserves are a necessary and normal part of a mining unit may file an application with the Manager to have such adjoining or adjacent Federal land (including lands under lease, permit lands subject to lease, or unleased lands) designated a fringe-acreage that will not be chargeable under paragraph (a) of this section to leasehold acreage holdings of the applicant. Such an application must be accompanied by a filing fee of $10 which is not returnable. If the Manager shall determine, after consultation with the Mining Supervisor, that the application meets the above requirements and that such designation will result in conservation of natural resources and will provide for economical and efficient recovery as a part of the mining unit, he may designate specific tracts by legal subdivisions not to exceed 2,560 acres in all as nonchargeable to the applicant under paragraph (a) of this section. The intent of this provision is that fringe area deposits not to exceed 2,560 acres may be held without acreage charge upon acquisition of mining rights therein by the applicant. A designation of fringe-acreage under this section shall not constitute a determination that the deposits therein shall be mined only by the applicant.

§ 194.4 *Qualifications of applicant.* (a) As used in this section, "applicant" means an applicant for a permit under § 194.8, for a lease under § 194.13, for a noncompetitive lease under § 194.17, the successful bidder to whom a lease is awarded under § 194.20, or an assignee or transferee under § 194.24.

(b) Permits and leases may be issued to citizens of the United States, association of citizens, and corporations organized under the laws of the United States or of any State or Territory thereof.

(c) All applicants must file with the Manager statements and evidence as follows (unless previously filed, in which event a reference by serial number to the record and the land office in which filed, together with a statement as to any amendments, will be accepted):

(1) As to citizenship, whether native born or naturalized.

(2) If applicant is an association (including a partnership), it must submit a certified copy of the articles of association and the same showing as to the citizenship and holdings of its members as required of an individual.

(3) A corporation must submit a statement showing:

(i) The State in which it is incorporated.

(ii) That it is authorized to hold leases for potassium deposits and that the person executing an instrument on behalf of the corporation is authorized to act in such matters.

(iii) The percentage of voting stock and of all the stock owned by aliens for those having addresses outside of the United States. When the stock owned by aliens is over 10 percent, additional information may be required.

(iv) The name, address, citizenship, and acreage holdings of any stockholder owning or controlling 20 percent or more of the stock of any class, of the corporation.

(4) That holdings do not exceed the acreage limitations specified in § 194.3.

§ 194.5 *Completion of pending applications and prior claims.* (a) Section 6 of the act of February 7, 1927, supra, which repealed the act of October 2, 1917 (40 Stat. 297), excepts valid claims existing at the passage of the act and thereafter maintained in compliance with the law under which initiated, which claims may be perfected under such law, including discovery.

(b) As to potassium mining claims, only those claims may be patented which were initiated prior to and were valid existing claims on October 2, 1917, and have since been duly maintained as such.

§ 194.6 *Permits and leases for lands disposed of with reservation of potassium.* Where lands included in a permit or lease have been disposed of with reservation of potassium deposits, a permittee or lessee must make full compliance with the law under which such reservation was made. See the acts of July 17, 1914 (38 Stat. 509; 30 U. S. C. 121–123); December 29, 1916 (39 Stat. 862; 43 U. S. C. 291–301); June 17, 1949 (63 Stat. 201); June 21, 1949 (63 Stat. 215; 30 U. S. C. 54), and August 13, 1954 (68 Stat. 708), and other laws authorizing such reservations.

NOTE: As provided in paragraph 3 of notice of October 16, 1951, 16 F. R. 10669, potash permits and leases including renewals for "Potash Area lands" within Eddy and Lea Counties, New Mexico, shall contain special requirements for the protection of oil and gas deposits.

§ 194.7 *Requirements when lands are within a withdrawal.* Where any part of the lands embraced in an application for potassium permit or lease is within a withdrawal which does not preclude disposition of the potassium deposits, the head of the Government agency having control will be called upon for a report as to whether there is any objection to the granting of a potassium permit or lease. Where he recommends that a special stipulation be required to protect the interests of the United States, an appropriate stipulation may be included in the lease or permit.

POTASSIUM PROSPECTING PERMITS

§ 194.8 Application for permit.

(a)[1] An application for a permit must be filed in duplicate in the appropriate land office. The application must be accompanied by a filing fee of $10 which is not returnable, and by full payment of the first year's rental in the amount specified in paragraph (b) of this section. No specific form of application is required, but the application should include the information and evidence called for in §§ 194.4 and 194.17(a) (1) and (2).

(b) *Permit rental.* A permittee shall pay an annual rental of 25 cents an acre or fraction thereof covered by his permit, but not less than $20 per year, such annual payments of rental shall be made on or before the anniversary date of the permit.

§ 194.9 *Rights conferred.* Two-year permits issued on Form 4–128[1] grant the permittee the exclusive right to prospect and explore the lands described therein to determine the existence of, or workability of, the potassium deposits. Only such material may be removed from the land as is necessary to experimental work or the demonstration of the existence of such deposits in commercial quantities.

§ 194.10 Permit bond.

Prior to the issuance of a permit the applicant must furnish a bond of not less than $1,000, with approved corporate surety (Form 4–1130), or his personal bond in similar amount (Form 4–1131) secured by negotiable Federal securities in the amount of the bond.

§ 194.11 *Extension of permits.* Potassium permits may be extended for a single period of two years if the permittee has drilled at least one adequate test well on the permit area or performed other comparable prospecting prescribed in the permit during the two-year period for which the permit was issued. This requirement may be waived, in the discretion of the Secretary, upon a satisfactory showing that the failure of permittee was directly attributable to the shortage of equipment or labor essential to the prescribed prospecting. The showing should consist of copies of timely correspondence or other evidence demonstrating the unsuccessful efforts to obtain the material or labor. The application for extension must be filed in duplicate in the appropriate land office within the period beginning 90 days prior to the date of expiration of the permit. Upon failure of permittee to file such an application within the specified period, the permit will expire without notice to the permittee, and the lands will be subject to new applications for potassium permits.

The application for extension must be accompanied by a filing fee of $10, which will be retained as a service charge even though the application is later withdrawn or rejected.

§ 194.12 *Cancelled permits.* Upon cancellation of a potassium permit for any reason, the land will not be open to potassium permit applications until the cancellation is noted on the records of the land office.

§ 194.13 *Reward for discovery.* (a) A permittee who discovers valuable potassium deposits in the land before the permit expires is entitled to a preference right lease of all or part of the lands in the permit, in a reasonably compact form as provided in § 194.3. An application for a preference right least must be filed in the appropriate land office not later than 30 days after the permit expires. The application must describe the lands desired, show any change in the information contained in the application for permit, specify fully the extent and mode of occurrence of the deposits as disclosed by the prospecting work, and show that valuable potassium deposits were discovered before the permit expired. The application must be accompanied by the first year's lease rental at the rate of 25 cents per acre or fraction thereof. The lease will be on Form 4–126 and will be dated the first day of the month following the date of the decision notifying the applicant that he is entitled to a preference right lease, unless otherwise specified therein. If the permit expires and the application for lease is finally rejected, royalty for the deposits mined will be charged at the permit rate and such mining will not constitute a trespass.

(b) If the lands are unsurveyed, the permittee, prior to the issuance of a lease, will be required to deposit with the appropriate State Supervisor the estimated cost of making a survey of the lands as officially determined by the Bureau of Land Management. This survey will be an extension of the public land surveys over the lands applied for, and the lands to be included in the lease will be conformed to the subdivision of such survey.

(c) If the permittee dies before the lease is issued, the lease will be issued to the executor or administrator of the estate if probate of the estate has not been completed; if probate has been completed, or is not required, to the heirs or devisees; and if there are minor heirs or devisees, to their legal guardian or trustee in his name, provided there is filed in all cases the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person, who as executor or administrator submits forms of lease and bond, has authority to act in that capacity and to sign such forms.

[1] A copy of this, as well as of every other form mentioned in this Part, may be obtained from any land office or from the Director, Bureau of Land Management, Washington 25, D. C. Copies of Forms 4–126 and 4–128 were filed with the Federal Register Division as part of the original document.

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased permittee and are the only heirs or devisees of the deceased.

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings similar to that required by § 194.4 (c) (1) and (4).

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs of the permittee and citing the provisions of the law of the deceased's last domicile showing no probate is required.

(ii) A statement over the signature of each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 194.4 (c) (1) and (4), except that if the heir or devisee is a minor, the statement must be over the signature of the guardian or trustee.

(3) Where there is a legal guardian or trustee:

(i) A certified copy of the court order authorizing the guardian or trustee to act as such and to fulfill in behalf of the minor or minors all obligations of the lease or arising thereunder; statements by the guardian or trustee as to the citizenship and holdings of each of the minors and as to his own citizenship and holdings, including his holdings for the benefit of other minors similar to that required by § 194.4 (c) (1) and (4).

POTASSIUM LEASES

§ 194.14 *Form of lease.* Leases shall be issued on Form 4–126.

§ 194.15 *Lease bond.* A compliance bond, in no event less than $5,000, with approved corporate surety (Form 4–1113) or the lessee's personal bond (Form 4–1114), will be required prior to the issuance of a lease. Personal bonds must be secured by negotiable Federal securities in the amount of the bond.

§ 194.16 *Minimum production.* Leases will require the payment of a royalty on a minimum annual production beginning with the sixth full calendar lease year, unless operations are interrupted by strikes, the elements, or casualties not attributable to the lessee, or unless, on application and showing made, lease operations are suspended by the Department of the Interior for the reasons specified in section 39 of the Mineral Leasing Act[2] (30 U. S. C. 209).

§ 194.17 *Application for lease.*[3] (a) An application for a lease must be filed in duplicate in the appropriate land office. A filing fee of $10, which will be retained as a service charge in any event, must accompany the application. No specific form is required, but the application should include the following:

(1) The applicant's name and address.

(2) A complete and accurate description of the lands for which the lease is desired. If the lands have been surveyed under the public land rectangular system, each application must describe the lands by legal subdivision, section, township, and range. If the lands have not been so surveyed, each application must describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys. In Alaska the description of unsurveyed lands must be connected by courses and distances to either an official corner of the public land surveys or to a triangulation station established by any agency of the United States (such as the U.S. Geological Survey, the Coast and Geodetic Survey, or the International Boundary Commission), if the record position thereof is available to the general public. When protracted surveys have been approved and the effective date thereof published in the FEDERAL REGISTER, all applications to lease lands shown on such protracted surveys, filed on or after such effective date, must describe the lands only according to the section, township, and range shown on the approved protracted surveys.

(3) Evidence that the land is valuable for its potassium content, with a statement as to the character, extent and mode of occurrence of the potassium deposits.

(b) The application must be signed by applicant, or by his attorney-in-fact supported by the power of attorney.

(c) If it be found that the area applied for is not available for leasing, the applicant will be so informed.

(d) Lands determined to be available for leasing may be offered competitively in the manner specified in § 194.18 except that if the Manager, after consulting with the Mining Supervisor, determines that the potassium deposits in the lands applied for extend into an active mining unit held by the applicant, are a normal part of such mining unit, are lacking in sufficient reserves to warrant independent development as a single mining unit, and are not of competitive interest to holders of other active mining units in the area, he may, in the interest of conservation of natural resources, grant to such applicant a lease to mine and remove such adjoining deposits without competitive bidding. A noncompetitive lease granted under this subsection shall provide for a royalty on production equal to the highest rate of royalty in any Federal lease in the applicant's adjoining mining unit but not less than 5 percent of the gross value thereof at the point of shipment to market, and, at the option of the applicant to be exercised at the time of filing of his application, either a cash bonus of $15.00 per acre or fraction thereof or a production payment of one cent per mine run ton in addition to the royalty specified in the lease. Acreage bonuses must be paid at the time of filing of application. Production payments will be made in the manner prescribed in section 2 (c) of lease Form 4–126.

§ 194.18 *Notice of lease offer.* Notice of offer of lands or deposits for lease by competitive bidding will be by publication once a week for four consecutive weeks, or for such other period as may be deemed advisable, in a newspaper of general circulation in the county in which the lands or deposits are situated. The notice will state the time and place of sale, whether the sale will be at public auction or by sealed bids, the description of the land and the place where a detailed statement of the terms and conditions of the lease offer and the obligations of the successful bidder to pay for publication of that notice may be obtained. A copy of the notice will be posted in the appropriate land office during the period of publication. The detailed statement will set forth the terms and conditions of the sale, including the manner in which bids may be submitted, and statements (a) that the successful bidder will be required, prior to the issuance of a lease, to pay his proportionate share of the total cost of publication of the notice of lease offer, and that the successful bidder's share shall be that proportion of the total advertising cost, that the number of parcels of land awarded to him bears to the number of parcels for which high bidders are declared; and (b) that the Government reserves the right to reject any and all bids. If any bid be rejected, the deposit will be returned. The commission of any act of intimidation of bidders, or the combination of bidders to hinder or prevent bidding is unlawful. See 18 U. S. C. 1860.

§ 194.19 *Bid deposits.* The successful bidder at a sale by public auction must on the date of sale deposit with the Manager of the Land Office, or other officer conducting the sale, and each bidder at a sale by sealed bids must submit with his bid the following: Certified check, cashier's check, bank draft, money order or cash for one-fifth of the amount of the bid by him, and a statement over the bidder's own signature with respect to citizenship and interests held similar to that prescribed in § 194.4.

§ 194.20 *Award of lease.* Upon receipt of the high bid at, and at the close of, an oral auction, or the opening of the sealed bids, the Manager, subject to his right to reject any and all bids, will award the lease to the successful bidder, who will be notified accordingly. Four

[2] See showing required under § 191.26 of this chapter, as amended.

[3] Potash lands and deposits in or adjacent to Searles Lake, California, are subject only to lease by competitive bidding, except as to potash mining rights included in sodium permits and leases issued under Part 195 of this chapter.

copies of the lease will be sent to the successful bidder, who will be required within 30 days from receipt thereof to execute them, pay the balance of the bonus bid, the first year's rental, and the cost of publication of the notice of lease offer as specified in § 194.18, and file a bond as required by § 194.15. If a bidder, after being awarded a lease, fails to execute it or otherwise comply with the applicable regulations, his deposit will be forfeited and disposed of as other receipts under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), as amended. If the lease awarded to the successful bidder is executed by an attorney acting in behalf of the bidder, the lease must be accompanied by evidence that the bidder authorized the attorney to execute the lease. If the bidder dies before the lease is issued, evidence such as specified in § 194.13 (c) must be filed before it can be determined to whom the lease may be issued.

§ 194.21 *Readjustment of terms and conditions at end of twenty-year periods.* The terms and conditions of a lease are subject to reasonable readjustment at the end of each twenty-year period succeeding the date of the lease, unless otherwise provided by law at the time of the expiration of such periods. The lessee will be notified of the proposed readjustment of terms or that no readjustment is to be made. The effective date of readjustment shall be the end of the respective twenty-year period or the first of the month following receipt by the lessee of notice of readjustment, whichever is the later. Unless the lessee files objection to the proposed terms, or a relinquishment of the lease within 30 days after receipt of the notice, he will be deemed to have agreed to such terms.

§ 194.22 *Relinquishment of lease.* Upon a satisfactory showing that the public interest will not be impaired, the lessee may surrender the entire lease or any legal subdivision thereof. A relinquishment must be filed in duplicate in the appropriate land office. Upon its acceptance it shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his surety to make payment of all accrued rentals and royalties and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

§ 194.23 *Cancellation of lease.* If the lessee fails to comply with the general regulations in force at the date of the lease, or at the effective date of any readjustment of the terms and conditions thereof under section 194.21, or defaults with respect to any of the terms, covenants, or stipulations of the lease, and such failure or default continues for 30 days after service of written notice thereof by the lessor, then the lessor may bring appropriate court proceedings to forfeit and cancel the lease as provided in section 31 of the Mineral Leasing Act (30 U. S. C. 188). A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause, or for the same cause occurring at any other time.

TRANSFERS OF PERMITS AND LEASES

§ 194.24 *Transfers, including subleases.* (a) Permits and leases may be transferred in whole or in part. The approval of a transfer of part of the lands in a permit or lease will create a new permit or lease for the transferred portion. A discovery made before or after the partial assignment, either on the retained or the assigned portions will not inure to the benefit of the other, nor will approval of a transfer extend the life of the permit or the readjustment periods of the lease. Transfers, whether by direct assignments, operating agreements, subleases, working or royalty interests, or otherwise, must be filed for approval in duplicate at the land office within 90 days after execution. Evidence of the qualifications of the assignee or transferee to hold the permit or lease, as required by § 194.4 must be submitted simultaneously. Before a transfer of a permit or lease will be approved, the consent of the surety to the substitution of the transferee as principal, or a new bond with the transferee as principal, must be submitted if the original permit or lease required the maintenance of a bond. If the transfer is for part of the land only, it must be for a legal subdivision and (1) the consent of the surety to the transfer and its agreement to remain bound as to the interest retained by the permittee or lessee must be submitted, as well as (2) a new bond with the transferee as principal covering the portion of the lands transferred. The account under the permit or lease must be in good standing before approval of transfer will be given. A transfer will take effect the first day of the month following its approval, or if the transferee requests, the first day of the month of the approval.

(b) An application for approval of any instrument transferring a lease or permit, or interest therein, must be accompanied by a service fee of $10. An application not accompanied by such a fee will not be accepted. The fee will not be returned even though the application is later withdrawn or rejected.

(c) No transfer will be approved if the transferee is not qualified to take and hold a permit or lease or if his bond is insufficient. A minor, except a minor heir or devisee of a permittee or lessee, is not qualified to hold a permit or lease and a transfer to a minor will not be approved.

(d) In order for the heirs or devisees of a deceased holder of a permit or lease, an operating agreement, or a royalty interest in a permit or lease, to be recognized by the Secretary as the holder of the permit or lease, agreement or interest, there must be furnished the appropriate showing required under § 194.13 (c).

§ 194.25 *Overriding royalties.* (a) An overriding royalty interest may be created by assignment or otherwise: *Provided, however,* That if the total of the overriding royalty interest at any time exceeds one percent of the gross value of the output at the point of shipment to market, it shall be subject to reduction or suspension by the Secretary to a total of not less than one percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so in order (1) to prevent premature abandonment, or (2) to make possible the economic mining of marginal or low grade deposits. Where there is more than one overriding royalty interest, any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof or in the absence of such agreement, in the inverse order of the dates of creation of such interests.

(b) Any assignment, sublease, or other transfer or agreement which creates an overriding royalty interest, will not be approved unless the owner of that interest files his agreement in writing that such interest is subject to suspension or reduction as provided in paragraph (a) of this section. No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the Secretary.

This Circular replaces Circular 1909, 1923, 1960, 2027 and that part of 2001 relating to 43 CFR, Part 194.

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